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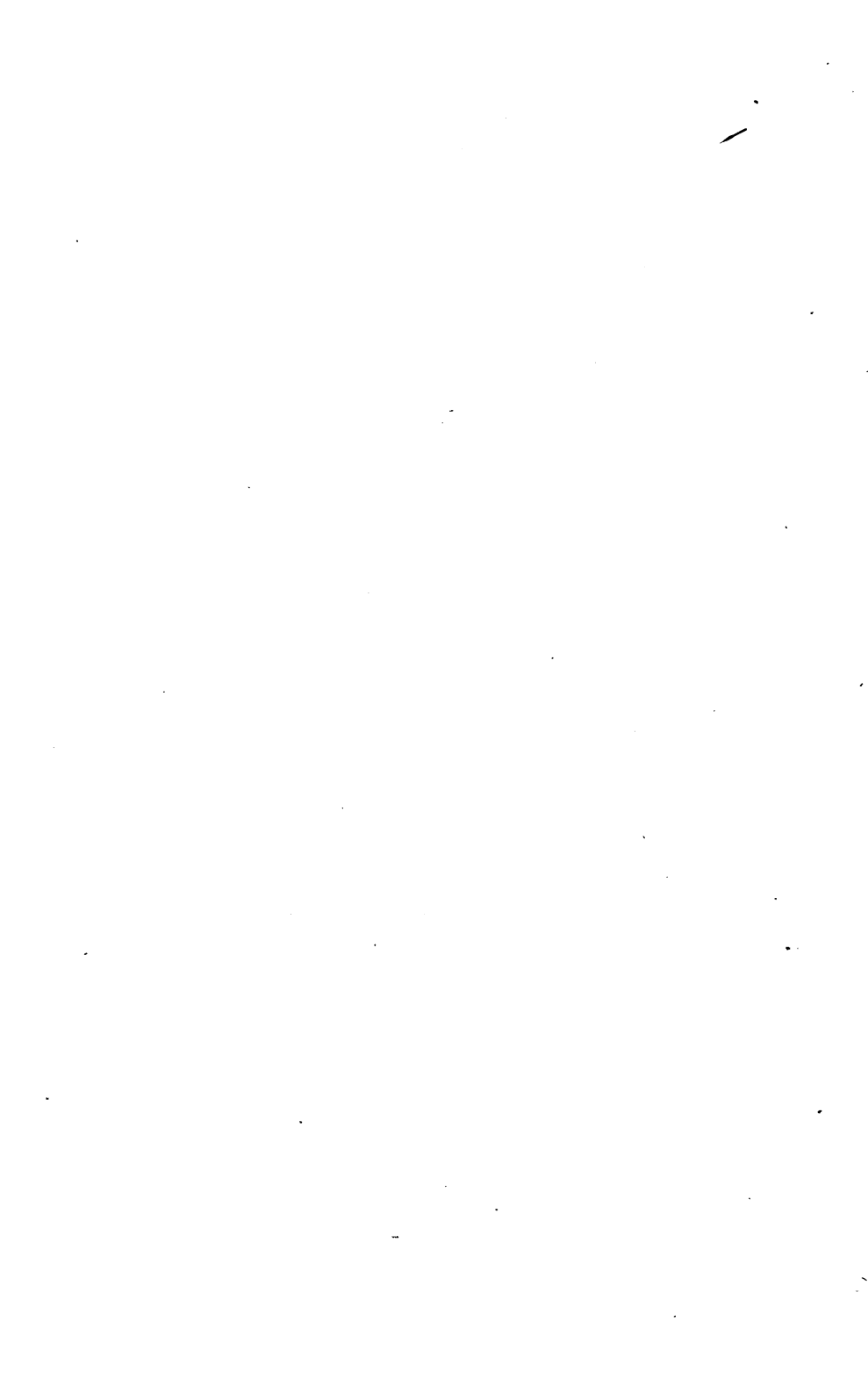
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OLIVER'S
Shipping Law Manual.

A PRACTICAL GUIDE

FOR

SHIPOWNERS, CAPTAINS, ETC.

WITH DIGESTS

OF

THE MERCHANT SHIPPING ACTS, 1894—1906.

SEVENTH EDITION, WITH ADDENDA.



Established 1763.

IMRAY, LAURIE, NORIE & WILSON, LTD.,

CHART AND NAUTICAL BOOK PUBLISHERS,

156, MINORIES, LONDON, E

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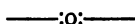
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INTRODUCTORY.



THE chief object of the following treatise is to afford assistance to Shipowners and Captains when abroad, or when unable to obtain professional guidance. It has therefore been written as concisely and simply as possible, avoiding all case-references or other unnecessary technicalities, and details which might puzzle the lay reader.

The fact of this *brochure* having passed through five editions rendered it evident that it had fulfilled the original design, and conferred a real benefit upon those for whom it was intended. However, the numerous material alterations afterwards made in the Merchant Shipping Law, both by statutory enactment and judicial decision, rendered a revision necessary, and this was carried out in the *Sixth Edition* by W. Mills Roche, Esq., Solicitor, of Sunderland, who also added new chapters dealing with "Inquiries into Shipping Casualties" and "Unseaworthiness," with a complete digest of all the provisions of the Merchant Shipping Acts then in force.

The Sixth Edition having met with due public support, a new issue was considered advisable, owing to several important changes since that date, including the codification

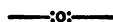
of the numerous Acts relating to Merchant Shipping into one comprehensive Statute, entitled the "Merchant Shipping Act, 1894." The work received alteration or emendation where necessary; a digest of the 1894 Act was carefully drawn up; and much additional information incorporated. A copious Index will enable the reader to make immediate reference to any particular subject which may require consideration.

This *Seventh Edition*, having met with as much success as its predecessors, is now issued with Addenda giving particulars of the later Merchant Shipping and other Acts, &c., affecting shipping.

LONDON,

January, 1908.

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FOR
OLIVER'S

INTERNATIONAL MARITIME LAW.—In 1897, an International Maritime Committee was formed, with the object of the unification of maritime law, to avoid the inconveniences and anomalies at present arising from the great divergences between the laws of the various maritime nations. The central or International Committee is composed of members from each country, and National Associations are being formed, that in England being a sub-committee of the International Law Association. It is hoped, by the facilities thus given for free discussion, that some approach to uniformity may be rendered possible in the course of time.

DISMISSAL, &c., of CAPTAIN.—Part VI. of the Merchant Shipping Act, 1894, gives power to Naval Courts, &c., to dismiss or supersede the Captain of a vessel in case of fraud, incompetence, &c. But cases may arise where death, illness, insanity, or distance from any authority, may render necessary the immediate appointment of another as Captain. At sea, the mate would naturally be the person to take over the management of the ship. In port, the Captain can appoint a fit and competent successor; but cases have arisen where the successor has been appointed by the Consul, merchants, or other persons interested in, or responsible for, the ship or her cargo, in the absence of, or the impossibility of getting instructions from, the owners, and such appointments have been upheld as legal.

Where a ship has several part-owners, the appointment and dismissal of the Captain would depend upon the judgment of those holding the largest interest, in case of any dispute arising among the shareholders. Should the Captain himself be a part-owner, he could not be dismissed unless for incompetence, fraud, or similar serious reason. Should the vessel change owners, the Captain would retain his position till re-appointed or superseded by the new owners.

Should a Captain feel that his dismissal is not fully justified, by not having received due notice, &c., he is advised to seek his remedy, if he thinks it wise to do so, by an action for damages for wrongful dismissal, and not to attempt to retain possession of the ship or her papers.

In 1897, a question arose as to a lady desiring to pass the Board of Trade voluntary examination as master of a yacht. The Board refused to allow her to do so; and, when pressed for reasons, could only state that they considered a master's certificate clearly implies that it is confined to men.

Page 2.—REGISTRY of SHIPPING.—Of recent years, many British-owned vessels have been registered in Norwegian and other foreign countries, to avoid the vexatious regulations of the Merchant Shipping Acts and the Board of Trade. The legality of this procedure has not yet been fully tested in the Courts, but it seems to be generally considered that a British owner may sail his ship under the flag of any country which will admit his ship on their register.

Pages 2-5.—Fees Payable for Registration, Transfer, &c.—By sec. 3 of the Merchant Shipping (Mercantile Marine Fund) Act, 1898, such fees are payable to the Exchequer, and are not to exceed those given below, and are not payable on *bona fide* fishing vessels or sailing ships under 100 tons.

1. *On Registry.*—Vessels under 50 tons gross pay 20s.; 50 to 100 tons, 30s.; 100 to 200 tons, 40s.; and 10s. for every 100 tons additional, or fraction thereof.

2. *On Transfer, Transmission, Registry Anew, Transfer of Registry, Mortgage, and Transfer of Mortgage.*—According to gross tonnage of ship or shares transferred, &c.—Under 10 tons, 2s. 6d.; 10 and under 20 tons, 5s.; 20 and under 30 tons, 7s. 6d.; 30 and under 40 tons, 10s.; 40 and under 50 tons, 12s. 6d.; 50 and under 75 tons, 15s.; 75 and under 100 tons, 17s. 6d.; 100 and under 125 tons, 20s.; and 2s. 6d. for every additional 50 tons, or part thereof, up to 500 tons; and 2s. 6d. for every 100 tons beyond.

Page 6.—CHARTER PARTIES.—If the owner desires to divest himself of all liability on account of the acts of the charterer or captain, he can do so by transferring the appointment and payment of the captain, officers, and crew, to the charterer; or, should he desire to keep such appointment and payment in his own hands, he can then escape all such liability by stating explicitly in the Bills of Lading that the captain signs only as the agent of the charterer. The captain will thus perceive that those to whom he looks for his position, payment, &c., are responsible for his actions as their agent. In the case of the *Manchester Trust v. Furness and Company*, the Court of Appeal decided that the latter firm were liable under the following circumstances:—A Spanish firm, trading in Manchester, chartered the steamer *Boston City* from Furness and Company, the latter paying the captain and crew, and insuring and maintaining the vessel. The charter party also contained a clause that the captain and crew were nevertheless to be the agents and servants of the charterers, and that in signing any bills of lading the captain should only do so as their agent, the charterers also agreeing to indemnify the owners from all the consequences and liabilities therewith. A cargo of coal was then loaded at

Cardiff for Rio de Janeiro, and the captain signed the bills of lading, but in doing so he did not specifically state whether as the agent for the charterers or owners. He was afterwards persuaded by the charterers to proceed to Buenos Ayres, and there gave possession of the cargo to the charterers' representative without previously demanding the production of the bills of lading; the coal was at once sold by the charterers, who shortly after stopped payment. The bills of lading had really been endorsed to the above Trust as security for a large advance, which was to be repaid on the delivery of the coal at Rio, and Furness and Company were held liable to the Trust for the loss incurred owing to the captain's folly. The only remedy of Furness and Company would be against the charterers, who had stopped payment.

Page 11.—In cases where the charter party specifies that the ship is to load *always afloat*, both charterers and owners should take care, in case of the harbour or dock being a tidal one, that due allowance be made in the terms thereof, to avoid claims for demurrage, &c., should the vessel have to leave, before completing a full cargo, owing to the fall in the water-level. In the case of the steamer *Carlton*, whose charter contained this proviso, and which had to leave Maryport with only one-fifth of her cargo on board, owing to the fall in the water-level, returning a week later to complete, the House of Lords, in 1898, affirmed the decision of the Court of Appeal, that no lay-days having been mentioned in the charter, and seeing that both owners and charterers had equal opportunities of ascertaining the capabilities of the harbour, the loading was performed in a reasonable time, and therefore the owners' claim for demurrage, &c., would not stand.

If a vessel is to be loaded at any particular berth, the owner must then be careful as to the terms of the charter party. In the case of *Stanley and Company v. Owners of the Lionel*, the vessel was chartered to proceed to the Corporation Quay at North Shields, and there load a cargo, which was to be put on board by the charterers. On arrival, access to the quay was refused by the Corporation, as the quay was at that time all reserved for the sole use of the herring fleet. The charterers thereupon chartered another vessel, and sued the owners of the *Lionel* for expenses incurred. The President of the Admiralty Division held the Owners liable, as there was no *joint* disability preventing the parties from carrying out their contract. The disability was upon the Owners alone, by the refusal of access to the quay, there being no objection as to loading.

Page 27.—**LOADING.—Ballast.**—In case of casualty, owing to improper substances being used as ballast, the captain's certificate is liable to be suspended by a Court of Inquiry.

Page 40.—**Employment of Steam-tugs.**—The vessel towed and the tug are generally considered to be in the relation of master and servant, the captain or pilot of the vessel towed being in a great degree answerable for safe and cautious navigation; and it must be remembered that, in the Rules for Avoiding Collisions, the tug and vessel towed are considered as one steamship. Care should be exercised to keep in the tug's wake so far as possible; but, in case of the tug running a risk of collision with another vessel, the vessel towed must manœuvre to assist the tug in avoiding it.

Page 42.—**PILOTAGE.**—By the Merchant Shipping (Exemption from Pilotage) Act, 1897, (60 and 61 Vict., ch. 61), it was enacted that exemption from compulsory pilotage, under sec. 603 of the Merchant Shipping Act, should cease to operate in the case of vessels on voyages between any port in Sweden or Norway and the port of London.

In 1897, the House of Lords, in the case of the *Edenbridge*, which had arrived from the River Plate, and discharged part of her cargo in the Thames, afterwards proceeding to Rotterdam, decided that in the latter voyage she came under sub-sec. 3 of sec. 625 of the Merchant Shipping Act, 1894, and was exempt from compulsory pilotage.

Page 52.—**SALVAGE.**—The awards in some recent cases of actions for salvage of vessels in distress, under very hazardous conditions in mid-ocean, &c., appear to show that proper consideration is not shown for the meritorious services rendered by captains, engineers, and officers, under the great responsibility, both moral and legal, in which they are placed, as apart from the services rendered by the vessels. It is surely to the interests of owners and underwriters that this should be remedied, by awarding the actual salvors a more substantial share of the sum paid as salvage.

In connection with this, it may be mentioned that the Courts have held that the captain is entitled to retain money given him by merchants as gratuities for extra diligence in the performance of his duties.

Ship Ashore, or Broken Down.—A captain placed in either of these unfortunate positions will need the greatest circumspection in engaging the assistance of tugs, &c. If possible, a bargain should first be made with tugs and salvors, depending upon results, or the "no cure no pay" principle, limiting the period, or arranging the agreement, so that additional assistance may be independently obtained, if necessary; having due regard to the dangers of delay, and the fact that underwriters rarely dispute reasonable expenses incurred in such cases. The Committee of Lloyd's have recently arranged to act as arbitrators in salvage affairs, and with marked success to all parties concerned; so that if no satisfactory arrangement can be speedily arrived at, the captain should endeavour to get the would-be salvors to agree that the remuneration for services rendered shall be left to their decision.

In 1894, some watermen and fishermen found a gas-lighted buoy or float adrift in the Humber, and, having secured it, claimed salvage from the owners, the Trinity House, Hull. The County Court Judge and the Admiralty Court both declared in favour of the watermen, but the Court of Appeal reversed these decisions, on the ground that a buoy is entirely different from a vessel or ship, and not a fit subject for salvage claims, and this judgment was confirmed by the House of Lords, May 24, 1897, it being held that buoys are left unguarded, and easily set adrift; and thus the hope of earning reward, by the restoration of lost property, is not, perhaps, the best preservative against loss.

Page 53.—**Derelicts.**—By an Act passed in 1896 (see Addenda for page 331), the captain of a British ship must report the existence of any floating derelict vessel he may know of to Lloyd's.

Page 55.—“**SAFE PORT,**” in charter parties where a vessel is to discharge all her cargo at one port, means a port where the vessel can proceed and lie afloat with full cargo. The *Antofagasta* was chartered to carry a cargo of grain to Gloucester, and on arrival at Sharpness the captain discharged all the cargo there, as his vessel was drawing 18 feet, and the canal to Gloucester had only about 14 feet water in it. The charterers desired the captain to discharge sufficient cargo at Sharpness to enable the vessel to bring the remainder to Gloucester, but he refused. They, therefore, brought an action to recover the cost of conveying the remainder, but, on appeal from the County Court decision, it was held that, under the charter, Gloucester was not a “safe port.”

Page 55.—**PASSENGERS.**—The owner or captain can exercise his discretion in refusing to accept as passengers persons who may be suffering from contagious disease, or whose behaviour threatens to render them a nuisance to their fellow passengers, or a danger to discipline. In case of failure to pay his fare, the captain may detain the passenger's luggage and general property on the ship, as security for the same, but not his person, or clothes actually in use.

In a case of a dispute as to card playing, where the captain had placed a passenger in confinement for resisting his orders, Baron Watson held that “the captain has the absolute control over the passengers and crew. The contract with the passenger is to carry, board, and lodge him, and the passenger is to obey all the captain's reasonable orders in an emergency, even to work the ship, if necessary. If a passenger misconduct himself at table, the captain may remove him, or may even imprison him for a short time, if imprisonment be necessary for the enforcement of his lawful commands. The rule of law is simple; the power of the captain is limited to the necessity of the case.” In other cases, the Judges have laid it down that persons on board a ship are necessarily subject to something like despotic authority, but unnecessary harshness, undue restraint, or restraint improperly continued, will expose a captain to the risk of an action for damages.

As Mr. Travers Twiss remarks, the circumstances under which the captain may be called upon to exert his authority on board ship are so various, and the necessity for its unlimited exercise may be so peremptory, that whilst it would be undesirable to lay down an inflexible rule of severity, it would be dangerous to fetter the captain's discretion in any case, by precise legislation. The captain's authority should be exerted rather with a view of preventing a repetition of the offence, than for punishment. The comfort and safety of the other passengers will warrant him in interfering to prevent a second offence, and imprisonment may be a necessary alternative where the offender cannot be put on shore.

Mr. J. H. Jackson, in an article in the “Nautical Magazine,” November 1897, sums up the captain's proper method of procedure in restraining misconduct of passengers as:—courteous request, patience and renewed remonstrance or reprimand, and, at last, just so much restraint, and, if that be unavailing, just so much force, and no more, as the exigency may call for

Page 53.—LIMITATION of LIABILITY.—The meaning of sec. 503 of the Merchant Shipping Act is that the shipowner's liability is limited to £15 per ton in case of loss of life or personal injury, and to £8 per ton in case of loss of, or damage to, vessels, goods, &c. In a case where there is both loss of life, or personal injury, and loss of, or damage to, vessels, &c., the owner's liability would be limited to £15 per ton, sufferers by loss of life, or personal injury, taking £7 per ton, and sharing *pro rata* with the sufferers in respect to loss of, or damage to, vessels, &c., in the remaining £8 per ton.

In case of damage caused in collision by *Her Majesty's Ships*, there is no legal claim against the Admiralty, even where such ships are clearly in the wrong. Any compensation granted would be only compassionate.

In cases where a vessel is chartered to the Government, and is under the control of a Government officer, the owner remains liable, and can sue or be sued. An owner could proceed against a Government officer personally, but not against the Government, unless the latter had assented to a binding clause in the charter.

Collision in Yacht Racing.—During a race on July 5, 1894, the yacht *Satanita*, owner Mr. A. D. Clarke, collided with and sank the yacht *Valkyrie*, owner Lord Dunraven. Under the rules of the Yacht Racing Association, the yacht in default was liable for "all damages," but Mr. Clarke claimed to have his liability limited to £8 per ton, under sec. 503 of the Merchant Shipping Act. On appeal to the House of Lords, the decision of the Court of Appeal was confirmed, that the liability could not be so limited, and that Mr. Clarke was liable for the full amount claimed, £7,500.

Pages 59-72.—RULE of the ROAD at SEA.—By Order in Council, November 27, 1896, new Regulations, founded on those proposed at the Washington International Conference, 1889-1890, came into operation July 1, 1897. In these Rules, the words steam vessel include any vessel propelled by machinery. A vessel is considered to be "under way" when not at anchor, made fast to the shore, or aground. Art. 13 (now 16) contains no definition of "moderate speed"; it is left for the Courts to decide.

By sec. 419 of the Merchant Shipping Act, 1894, vessels are held responsible in case of accident, where any of these Rules have been infringed. The Courts appear to decide cases by the Rules alone, without regard to the merits of the case, and disregarding the matter of negligence. Reckless and careless navigation make it impossible to frame Rules which will altogether avoid risk of collision.

The chief alterations and additions to the Articles (as previously numbered) are as follow:—

Art. 3. In addition to the *bright* fore light, a similar *bright* light may be carried at least 15 feet below and in front of it, on the line of keel, the vertical distance to be less than the horizontal distance.

(e.)—By means of an Order in Council, dated February 8th, 1896, the sub-section (e) was rescinded, and the Board of Trade requirement as to an angle of 4° in the screening is no longer enforced. It is now required that the forward edge of the screen, or chock, should be in a line parallel to the keel with the inside edge of the wick or electric filament; and that the breadth of the wick or filament should not be more than 2 inches, nor less than 1 inch, as measured at right angles to the line of keel.

Art. 4. The *bright* lights not to be less than 6 feet apart. When towing more than one vessel, and the stern of the last vessel is over 600 feet from the stern of the tug, an additional *bright* light *must* be carried 6 feet above or below such lights, not less than 14 feet above the hull. The tug *may* also carry a small *bright* light aft, but this is not to be visible forward of the beam.

Art. 5. (a.) Instead of "*three red* lights," read "*two red* lights"; and instead of "*three shapes*," read "*two black balls or shapes*," carried vertically as required, where they can best be seen. Unless a steam ship, the red lights are to be carried where they can best be seen. (b.) The shapes to be carried vertically where they can best be seen. The lights and shapes to be at least 6 feet apart.

Art. 6. For "or being," read "and any vessel being."

Art. 7. Steam vessels of less than 40 tons, and other vessels of less than 20 tons, gross, including rowing boats, when under way, if they do not carry the lights required by Art. 3:—1. (a.) Steamers to carry the *bright* light not less than 9 feet above the gunwale, and (b.) *green* and *red* side-lights, or, in lieu thereof, a combined lantern not less than 8 feet below the *bright* light, showing similar *green* and *red* sectors. 2. Small steam vessels, such as ship's launches, may carry the *bright* light at a lower elevation than 9 feet. 3. The vessels under oars or sails to carry a combined *green* and *red* lantern, shown when necessary, as formerly. 4. Rowing boats to show a *bright* lantern light, under similar circumstances.

Art. 8. A vessel under 150 feet in length, at anchor, to carry the *bright* light forward. If of 150 feet or over, to carry an additional similar light at or near the stern, not less than 15 feet lower than the forward light. A vessel aground in or near a fairway to carry similar lights, in addition to the *red* lights in Art. 5.

Art. 9. Pilot vessels, when near other vessels, to show their side-lights at short intervals.

Art. 10. In May, 1897, the Board of Trade appointed a Committee to report whether and what alterations were required in regard to the lights and signals to be carried and used by *Fishing Vessels*, when engaged in fishing. In their report, May, 1898, they recommended that the draft rules of the Rule of the Road Committee, 1892, should be adopted, with certain alterations. They have not yet been officially adopted, and may be summarised as follows:—

(a.) Open boats, when fishing, to show an all-round white light.

(b.) Other boats and vessels, when fishing with drift-nets, to carry two white lights, visible at least 3 miles, where best seen, their vertical distance apart being between 6 and 15 ft., and the horizontal distance, in line with the keel, between 5 and 10 feet. The lower light to be nearest the end where the nets are attached.

(c.) Vessels, other than open boats, with lines out and attached, and not at anchor or stationary, to carry the same lights as a vessel with drift-nets. If shooting or towing lines, an all-round white light may be shown not over 4 ft. above the deck, in addition to the lights prescribed for a steam or sailing vessel under way.

(d.) Steam trawlers to carry, on or in front of the foremast, a tri-coloured lantern, showing a white light from right ahead to 2 points on each bow, and thence an arc of green light, and one of red, to 2 points abaft the beam, on the starboard and port sides respectively. Between 6 and 12 ft. below this, a white all-round light is to be carried.

Sailing trawlers to carry a white all-round light; and to burn a red pyrotechnic light, if on the port tack, and a green light, if on the starboard tack, in case of approach of or to other vessels.

All lights in (d.) to be visible at least 2 miles.

(e.) Oyster dredgers to show the same lights as trawlers.

(f.) Fishing-vessels and fishing-boats may use a flare light, in addition to lights required.

(g.) Same as present sub-section (f.), on page 64.

(h.) Same as present sub-section (d.), on page 64.

(i.) In vessels mentioned in sub-section (g.), on page 64, if of 20 tons gross and over, the signal to be made at intervals of not more than 1 minute, with the whistle or siren on steamers, and with the horn on sailing vessels, each blast to be followed by the ringing of a bell.

(k.) Boats and vessels fishing, when under way, to display a basket, or other signal denoting their occupation, to vessels approaching; and if at anchor, this signal should be shown on the side on which approaching vessels may pass.

Art. 11. The stern light *may* be carried in a fixed lantern, on about the same level as the side-lights, and constructed so as to be visible right aft for 6 points on either side.

Art. 12. Sound Signals for Fog, Heavy Rain, &c.—1. To be made by steam vessels on a Whistle or Siren. 2. By sailing vessels, or vessels towed, on a Fog-horn. A "prolonged blast" is a blast of 4 to 6 seconds duration.

(a.) Signal as before. (b.) A steam vessel stopped, with no way on her, to sound at intervals of not more than 2 minutes, *two prolonged blasts*, separated by an interval of 1 second. (c.) A sailing ship to make her signal (as before), at intervals of not more than 1 minute. (d.) When at anchor, vessels to ring the bell rapidly for 5 seconds at intervals of not more than 1 minute. (e.) A vessel towing, a vessel engaged over a telegraph cable, and a vessel under way but not under command, instead of the above signals, to sound *one prolonged blast* closely followed by *two short blasts*, at intervals of not more than 2 minutes. A vessel towed *may* also give this signal, but no other.

Sailing vessels, and boats, of less than 20 tons gross, if they do not give the above signals, to make some efficient signal at intervals of not more than 1 minute.

Art. 16. When a steam vessel hears a fog signal apparently forward of her beam, she is to stop her engines, &c., till danger of collision is over.

Art. 18. After "Every steam ship," read "directed by these Rules to keep out of the way of another vessel"; and she should, if possible, avoid crossing ahead of the other.

Art. 19. A "short blast" to be of 1 second duration. These signals are now obligatory, and may be made on the Whistle or Siren. Three short blasts to mean "My engines are going full speed astern."

Art. 20. A vessel approaching another vessel from any direction more than 2 points abaft her beam, is deemed to be an "overtaking" vessel, and no subsequent alteration of the bearing between the two shall make the overtaking vessel a "crossing" vessel within the meaning of the Rules.

Art. 22. Add the words "and speed." If collision cannot be avoided by the action of the giving-way vessel alone, the other must also take action to avert it.

Art. 26. Add, "or for duly authorised recognition signals."

Art. 27. Add, "4. A continuous sounding with any fog-signal apparatus."

NEW RULES.—Art. 12. To attract attention, a vessel may show a flare, or use any detonating signal which cannot be mistaken for a distress signal, in addition to the required lights.

Art. 14. A steam vessel under sail only, with her funnel up, to carry forward *one black ball or shape* 2 feet in diameter.

Art. 22. A vessel directed to keep out of the way by these Rules, to avoid crossing ahead of the other vessel, if possible.

Art. 26. Sailing vessels to keep out of the way of boats fishing, but the latter must not obstruct a fairway.

Vice-Admiral P. H. Colomb points out that the *new* Art. 22 infers that a "giving-way" ship, seeing a red light on her starboard bow, must port her helm. A vessel, seeing a red light anywhere, or hearing a fog signal on her starboard bow, must not starboard her helm; and a vessel, seeing a green light anywhere, or hearing a fog signal on her port bow, must not port her helm; as these movements would be *prima facie* attempts to "cross ahead."

Squadrons of war-vessels should be given a wide berth, and no attempts made to pass ahead of them, through them, or to break their line.

WARNING SIGNALS, for Use at Night, or in Thick Weather.—Owing to several disasters, which might have been prevented had there been a recognized means of giving warning of danger, the following signals have been authorized, by means of lights and whistles, horns, sirens, &c. The signal is U of the Morse alphabet, *two short* followed by *one long* flashes or blasts, meaning "You are standing into danger," given thus:—flash or blast 1 second, interval 1 second, flash or blast 1 second, interval 1 second, then flash or blast 3 seconds. The acknowledging signal is a series of long and short flashes or blasts.

To attract attention, a series of short flashes or blasts should be made, till replied to in a similar way, if possible. The given signal should then be made; or it may be made without preparatory signals, if advisable.

Page 78.—DEMURRAGE.—The Court of Appeal decided, in the case of *Crawford v. Wilson, Sons, and Co.*, that the owners were not liable for demurrage, for the discharge of a cargo of coal at Rio being much delayed owing to a political revolution being in progress. (See, also, Addenda for page 11).

Page 125.—PIRACY.—The Rev. T. J. Lawrence, Lecturer on International Law at the Royal Naval College, Greenwich, defines Piracy as involving " (1.) the commission of an act, or acts, of violence, (2.) outside the territorial jurisdiction of any civilised state, (3.) and without authorisation from any recognised political community. That an act may be piratical, these three marks must co-exist. The absence of any one of them deprives it of its piratical character. The only exception to this statement occurs when a whole nation takes to depredating upon the high seas, and its vessels attack and capture those of other powers in time of peace with the full knowledge and sanction of its government.

"One of the essential characteristics of a piratical act is that its perpetrators shall have cut themselves adrift from all national authority. They are acting entirely on their own account. They are responsible with their lives for their misdeeds; and it would be the height of injustice to demand from the state, whose subjects they are by birth and allegiance, reparation for crimes done by them outside its jurisdiction, and in defiance of its laws."—*Nautical Magazine*, 1896, pages 1029—1035.

Page 128.—MARINE INSURANCE.—In the case of the *Blairmore*, which was sunk in harbour by a squall, and abandoned by the owners as a constructive total loss, the underwriters raised and repaired the vessel, and contended that there was only a partial loss. The Scotch Courts supported this contention, but, on appeal to the House of Lords, in 1898, it was decided that underwriters cannot by their own acts convert a total loss into a partial loss.

In case of a vessel being sunk in any harbour or fairway, and the expense of raising or removal threatens to be great, it seems advisable for owners to abandon to the underwriters as a loss, rather than face the risk of being called upon by the local authorities to bear the cost of removal.

Page 134.—GENERAL AVERAGE.—In the case of the *Wavertree*, bound from London to Sydney, where a fire occurred on board, entailing general average expenses, a Liverpool firm was engaged to make out the statement, but one of the Sydney consignees refused to give particulars as to the value of his consignment, contending that the statement should be drawn up in Sydney. The Colonial Courts supported him in this contention; but, on appeal to the Privy Council, 1897, this judgment was reversed, on the ground that an average bond does not require that it should be made out in any particular place or by any particular person, and that the captain only is responsible for the statement, which he may make out himself, if he consider it politic to dispense with the services of an average stater, or other qualified person.

In most foreign countries, the law requires the average statement to be drawn up at the port of discharge or repair, by an average stater, unless there be any special agreement to the contrary.

Page 159.—**INQUIRIES into SHIPPING CASUALTIES, Procedure in Scotland.**—At an Inquiry into the stranding of the steamer *Samara*, August, 1894, the master's certificate was suspended for steering too fine a course, for neglecting to verify his position by the log and lead, and failing to make sufficient allowance for tide. On October 30, an Appeal by the master against the finding was heard by the Court of Session at Edinburgh, and sustained with expenses. The Lord President, when delivering judgment, made the following amongst other remarks:—"In the first place, this Inquiry opens without any vestige of written notice to the person accused of what are the gravamen to be advanced against him. * * * I find * * * that the Board of Trade * * * chose to put the master into the witness-box and examine him on the matters in hand. My Lords, I am not prepared to support a sentence pronounced in these circumstances." Lord McLaren, in concurring, said: "I agree with your lordship that it is not in general safe to proceed under an inquiry, which has punishment or censure for one of its objects, without giving fair notice to the accused of all points which are to be made against him. * * * I think we could not consistently, with justice to the defender, maintain the sentence."

Incidentally, in this appeal, when the Board of Trade counsel wished to make a point against the master, because he, the master, could not explain the casualty, the Court interposed with the valuable dictum, "You cannot convict a shipmaster because he cannot frame a theory to account for a casualty." Courts of Inquiry have usually held the opposite view. The Court of Appeal found that the course steered was not too fine, that a correct allowance had been made for (normal) tides and currents, and that neglect of the lead and log had never been put to the master at all in the original hearing.

The remarks which the Lord President made, in giving judgment, have been interpreted by the sheriffs (who preside in Casualty Inquiries held in Scotland) to have the far-reaching effect of giving a shipmaster, mate, engineer, or owner, the right to have intimated to him by the Board of Trade, and before he enters the witness-box, a statement of the matters upon which he is to be examined, if the Board are to seek to obtain conviction on any of these matters.

Practically, the Inquiries in Scotland, since the *Samara* appeal, have begun by the Board of Trade (under protest) putting in the famous "questions" first. This improvement, won at sword's point in Scotland, is one which for some time past the Lord Chancellor has been asked by the Shipmasters' and Officers' Federation to concede of free grace for the United Kingdom.

Two recent appeals, both Scottish, have thus led (in Scotland at least) to a distinct gain in the way of breaking down the harsh and arbitrary conditions under which these Inquiries are held, and a point has been gained in the direction of constitutional, just, and legal procedure.—*The London Shipmasters' Society*, Paper No. 36, pages 32—33.

Page 176.—UNSEAWORTHINESS.—Undermanning.—By the Merchant Shipping Act, 1897 (60 and 61 Vict., ch. 59), it was enacted that sections 459 and 462 of the Merchant Shipping Act, 1894, shall apply in the case of undermanning, power being given to muster the crew in British ships. Under this Act, the Board of Trade require that foreign-going steamships, over 200 ft. long, or not less than 700 tons gross, when proceeding to sea, should have, independently of the captain and two mates, sufficient deck-hands to form two watches, each formed of at least one competent hand at the wheel, a look-out man, and an additional hand on deck, in addition to the officer of the watch. In smaller steamers, or sailing vessels, no hard and fast rule is laid down, but the Board of Trade officials have power to detain them if they consider them to be undermanned.

In an action for damages to a cargo of maize, caused by heating, owing to imperfect ventilation, the cowls not being on, in consequence of bad weather, the plaintiffs gained their case, in 1897, the Admiralty Court holding that the vessel, the *Bellasco*, was unseaworthy as regarded ventilation.

Page 187.—Deck Cargoes.—In September, 1896, the Board of Trade issued a notice defining "light wood goods," in sub-sec. 3 of sec. 451 of the Act, as being "any goods of light wood, such as pit-props, sleepers, battens, boards, deal-ends, lath-wood, Norway spars, and firewood, the units of which are of no greater cubic capacity than 15 cubic feet. Logs and spars 8 inches square and over, or 24 inches and upwards in girth, although of light wood, and no greater than 15 cubic feet, must be deemed to be timber."

Page 190.—DECK and LOAD-LINES, &c.—In March, 1898, a Committee was appointed by the Board of Trade, to inquire into the operation of the rules as to *Winter* freeboard in the North Atlantic Ocean. In their report, just issued, the Committee recommend that the winter load-line should be dispensed with in the case of vessels over 330 ft. long, and should be imposed less rigorously on smaller vessels. In ports far inland, they recommend that allowance should be made for the weight of the coal which will be consumed before the vessel reaches the sea. They also agree with the contention of owners and captains, that the parallel of lat. 37° 30' N. is not in any sense a rational boundary between the fine and stormy areas.

Rules will shortly be issued, modifying those now in force.

The *Indian Summer*, or fine season in the Indian Seas, is now defined as from November 15 to May 25, East of Tuticorin; and from September 1 to May 25, West of it.

Page 248.—Sec. 185 refers to *Lascars* engaged as seamen, &c., and not to *Lascar* passengers.

Sec. 186.—Under the circumstances recited, the seaman or apprentice discharged *abroad* must—

(a.) Be provided with employment on a British ship bound to the port in Her Majesty's dominions where he was shipped, or to a port in the United Kingdom agreed to by the seaman, or

(b.) Be furnished with the means of returning to some such port, or

(c. and d.) Be provided with a passage home.

In the third case, it has recently been held that the words "a passage home" did not necessarily mean "a passage to port of shipment," but "a port within the ambit of the port of shipment," *e.g.* Hartlepool and Grimsby. The seaman, however, is considered to have a voice in the settlement of the amount to be deposited with the consul or merchant, for returning him. The sum being deposited, no subsequent action will lie against owners or captain.

No such obligation is imposed by the Act, to return seamen discharged in the Colonies.

Page 250.—Sec. 193.—By sec. 4 of the Merchant Shipping (Merc. Mar. Fund) Act, 1898, which comes into operation on April 1, 1899, it is enacted that sec. 193 applies to any distressed seamen, except in the case of desertion or disappearance.

Sec. 194 is repealed by the same Act.

Page 294.—Derelict Vessels Report Act.—See Addenda for page 331.

Page 296.—Sec. 531.—The Mercantile Marine Fund being abolished by the Merchant Shipping Act, 1898, the expenses incurred under sec. 531 are chargeable to the new General Lighthouse Fund.

Page 308.—Part XI.—References to the now abolished Mercantile Marine Fund shall be construed as references to the General Lighthouse Fund.

Page 309.—LIGHT DUES.—Sec. 643, &c.—On and after April 1, 1899, the Merchant Shipping Act, 1898, enacts that general lighthouse authorities shall levy light dues with respect to voyages made, or by way of periodical payment, and not with respect to the lights which the ship passes or derives benefit from. The Scale and Rules under this Act may be altered by Order in Council, previously laid before the Houses of Parliament.

Secs. 644, 645, 646 are repealed.

Scale of Payments.—1. 1*d.* per ton per voyage for home-trade sailing ships.

2. 2½*d.* per ton per voyage for foreign-going sailing ships.

3. 1½*d.* " " " home-trade steamers.

4. 2½*d.* " " " foreign-going "

5. An annual payment of 1*s.* per ton for tugs and pleasure yachts.

Rules.—1. A home-trade ship will not be charged for more than 10 voyages in any year, nor a foreign-going ship for more than 6 voyages. If the ship makes both home and foreign voyages in the same year, she will not be charged for more than 10 voyages, counting each foreign voyage as a voyage and a half. No steamer to pay more than 1*s.* 4½*d.* per ton, and no sailing vessel more than 1*s.* 1½*d.* per ton, in any year.

2. Vessels from foreign ports to be considered as on one foreign voyage until arrival at final destination of discharge of cargo or passengers from abroad; and vice versa with vessels bound outwards.

3. The voyage of a home-trade ship is reckoned from port to port, dues not being chargeable for more than 3 voyages in one month.

4. The voyage of a foreign-going ship is reckoned from time of loading of cargo, within the limits of the United Kingdom, destined for abroad.

5. The voyage of a foreign-going vessel from abroad is reckoned from the last foreign port of lading to the last home port of discharge of cargo from abroad.

6. Dues payable per voyage are payable only at ports where cargo, &c., is loaded or discharged.

7. Annual payments to be made at the commencement of each year, but a new vessel shall pay only 1*d.* per ton per month from her first voyage to the following April 1.

8. Tonnage is reckoned as under the Merchant Shipping Act, 1894. A year is reckoned from April 1, the Government financial year.

Exemptions.—No Light Dues are chargeable on H.M. Ships; ships belonging to foreign Governments; sailing ships under 100 tons, all ships under 20 tons, unless pleasure yachts; vessels *bona fide* wholly in ballast, unless tugs or pleasure yachts; vessels putting in for bunker coal, stores, or provisions, for use on board; fishing vessels, so engaged; vessels putting in for shelter, or repairs, and re-shipping such cargo as they may have had to discharge; and yachts and pleasure boats under 5 tons register.

By sec. 6 of this Act, the owner of a vessel carrying a certain number of boys, between 15 and 19 years of age, and enrolled in the Royal Naval Reserve, is entitled to an allowance, not exceeding one-fifth of the light dues paid during that year in respect of such vessel, out of funds provided by Parliament. It empowers the Board of Trade to draw up, and modify, the necessary scale and regulations. This section remains in force till March 31, 1905. The Scale and Regulations will be issued shortly, but they have not yet been made public.

Page 311.—Secs. 661, 662, 663 apply in the case of colonial lights, &c., under sec. 2 of the Merchant Shipping Act, 1898.

Page 312.—Colonial Lights, &c.—By sec. 2 of the Merchant Shipping Act, 1898, the dues received on lighthouses, buoys, or beacons, maintained by the Board of Trade,* are now to be carried to the General Lighthouse Fund, and the expenses of establishment and maintenance are to be paid out of the same fund.

The expenses of making and maintaining communication between light-houses and the shore come out of the same fund, such communications to be available for private messages.

Sec. 673 is repealed.

* These are:—11 Lighthouses in the Bahamas, viz.—Gun Kay, Abaco, Kay Sal, Great Isaacs, Kay Lobos, Elbow Kay, Great Stirrup Kay, Castle Island, Inagua, Bird Rock, and Watling Island. Sombrero, one of the Leeward Islands. Cape Pembroke, Falkland Islands. Great and Little Bassas Rocks, Barbaryn, and Dondra Head, Ceylon. Minicoy Island. And a contribution to that on Cape Spartel.

Page 313.—PART XII.—MERCANTILE MARINE FUND.—By the Merchant Shipping (Mercantile Marine Fund) Act, 1898 (61 and 62 Vict., ch. 44), this fund is abolished on and after April 1, 1899. All sums hitherto payable thereto, or thereby, are then to be paid into, or by, the Exchequer, with the exception of light dues and sums payable to general lighthouse authorities, which are to be paid into a new fund to be called the *General Lighthouse Fund*, which will be charged only with the expenses relating to lighthouses, buoys, and beacons.

Sec. 678 is repealed.

Sec. 679 now refers to the General Lighthouse Fund.

Page 328.—ROYAL NAVAL RESERVE.—By an Order in Council, February 8, 1896, various changes were made in the regulations as to service of Officers and Engineers, who are limited in number to 1500 and 300 respectively. The limit of age of applicants for appointment as Lieutenant, Sub-Lieutenant, Senior Engineer, and Engineer, is reduced to 35, 30, 45, and 35 years respectively. The age for compulsory retirement is 45 for Lieutenant, 40 for Sub-Lieutenant, and 25 for Midshipman.

In 1897, new Regulations were approved, by which two new classes will be constituted, viz., *Qualified Seaman*, and *Seaman*.

New entrants, with the exception of firemen, boys, and A.B. seamen discharged from the Royal Navy, will join the *Seaman* class, age, &c., as in the former Ordinary Seaman class, at a retainer of £3 5s. a year, payable quarterly, and must undergo a period of 6 months training in the Royal Navy. If satisfactory, he will then be promoted to the *Qualified Seaman* class, at a retainer of £6 a year, payable quarterly.

Firemen of the old class will have a retainer of £5 a year, and those of the new class £6 a year, payable quarterly.

Under the Royal Naval Reserve Volunteer Act, 1896, there is power to raise and pay volunteers outside the British Isles, provided the recruits be British subjects serving on vessels registered in the British Isles; so as to bring into the Reserve members of crews of vessels trading between Colonial and foreign ports.

Page 331.—QUARANTINE in the United Kingdom.—By the Public Health Act, 1875, and that of 1896 (59 & 60 Vict., ch. 19), the Quarantine Act of 1825, and its subsequent modifications, were repealed, the Local Government Boards now being entrusted with the duty of making and enforcing regulations as to Quarantine. Such regulations made in pursuance of sections 130 or 134 of the Public Health Act, 1875, as extended to London by the Public Health (London) Act, 1891, may be enforced and executed by the officers of Customs and the officers and men employed in the Coastguard, as well as by other authorities and officers. They may provide for the signals to be hoisted by vessels having any case of epidemic, endemic, or infectious disease on board; the questions to be answered by masters, pilots, and other persons on board as to cases of such disease on board; the detention of vessels and of persons on board; and the duties to be performed in cases of such disease by masters, pilots, and other persons on board.

Any person disobeying or obstructing the execution of these regulations is liable to a penalty not exceeding £100, and in addition £50 for every day during which the offence continues.

The regulations at present in force, known as the *Cholera Regulations*, were issued August 28, 1890, the following being an outline of them. In case of a ship being suspected as infected, the captain must obey the orders of the authorities, and allow no person to leave, till examined by the Medical Officer of Health. If the examination be not commenced within 12 hours of notice of detention to the Sanitary Authority, the ship shall then be released.

A vessel certified as infected, and any infected vessel within 8 miles of the coast, must fly the yellow code signal flag Q under the National Ensign. After being placed in quarantine, every person on board is to be examined by the proper medical officer, before being allowed to land; and that officer can require the captain to take all necessary steps for preventing the spread of infection, and for the destruction or disinfection of clothing, bedding, &c.

Page 331.—**DERELICT VESSELS (Report) ACT, 1896.**—The existence of a floating derelict on the high seas, must be reported by the master, or person in command, of a British vessel to Lloyd's Agent at the next port touched at, or, if there be no such person, then to the Secretary of Lloyd's, London, for publication. Failure to make such report entails a penalty not exceeding £5.

Page 331.—**LAW of NATIONS.**—As a result of the Congress of representatives of the chief nations, assembled at Berlin, a declaration was issued at Paris on April 16, 1856, all except Spain, Mexico, Venezuela, and the United States, adopting the following principles:—

1. Privateering is, and remains, abolished.
2. The neutral flag protects the enemy's commerce, except as regards contraband of war.
3. Neutral merchandise, except contraband of war, is not to be seized, even though under the enemy's flag.
4. A blockade to be valid must be effective.

Page 332.—**BRITISH CONSULAR FEES**, in China, Japan, and Corea, are leviable at a somewhat higher rate than those for other countries, and are calculated in dollars and cents.

1907.

AMENDMENTS, ETC., OF THE MERCHANT SHIPPING ACT, 1894.

The following is a digest, in chronological order, of the Acts of Parliament amending or altering the provisions of the Merchant Shipping Act, 1894, to the Sections, etc., of which the references here made apply.

MERCHANT SHIPPING ACT, 1897.

(60 and 61 Vict. Ch. 59.)

- 1.—**Undermanning.**—Under Sections 459 and 462, undermanning is held to render a vessel “unsafe,” and liable to detention.
 - 2.—Short Title.
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MERCHANT SHIPPING (EXEMPTION FROM PILOTAGE) ACT, 1897.

(60 and 61 Vict. Ch. 61.)

- 1.—The exemption from compulsory pilotage, in the case of vessels on voyages between any port in Sweden or Norway and the port of London, was abolished as from July 1, 1898.
 - 2.—Short Title.
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MERCHANT SHIPPING (LIABILITY OF SHIPOWNERS) ACT, 1898.

(61 and 62 Vict. Ch. 14.)

- 1.—**Extension of Limitation of Liability.**—The provisions of Sections 502 to 509 will apply to the owners, builders, or other parties interested in a ship built in H.M. dominions from and including the launch until the registration thereof under Section 2.
- 2.—Partial repeal of Section 508, as inconsistent with foregoing.
- 3.—**Tonnage Measurement** under this Act to be ascertained as provided in Section 508, with regard to foreign ships.
- 4.—**Definition.**—Under this Act the word “ship” includes every vessel not propelled by oars, whether completed or in process of construction.
- 5.—Short Title.

MERCHANT SHIPPING (MERCANTILE MARINE FUND) ACT, 1898.

(61 and 62 Vict. Ch. 44.)

1.—Abolition of Mercantile Marine Fund.—All sums hitherto payable to this Fund, except the Light Dues, &c., under Part XI. of the Act, 1894, are to be paid into the Exchequer, and all expenses (except those relating to lighthouses, buoys, and beacons under Section 677, and expenses incurred by a lighthouse authority under Section 581) are to be paid, so far as not paid by private persons, out of money provided by Parliament. The sums and expenses excepted are payable and chargeable to a new fund, the **General Lighthouse Fund**, to which references made to the Mercantile Marine Fund in Part XI. and Sections 581 and 679 shall apply.

2.—Colonial Light Dues to be transferred to the General Lighthouse Fund, and expenses connected with colonial lights, buoys, and beacons are to be paid by that Fund. Sections 561 to 663, as to loans for lighthouse purposes, also apply in the case of colonial lights. Expenses of communication between lighthouses and the shore are to be paid out of this Fund, provided reasonable facilities are given for private messages.

3.—Fees for Registration, Transfer, and Mortgage, not exceeding those specified in Schedule 1, to be paid into the Exchequer, but such fees are not payable by fishing vessels or sailing ships under 100 tons.

4.—Repealed by Merchant Shipping Act, 1906.

5.—Scale of Light Dues.—Dues are in future to be levied with respect to voyages made or by periodical payment, and not according to lights passed. The scale and rules, given in Schedule 2, may be altered by Order in Council.

6.—An Abatement not exceeding one-fifth of the light dues paid in any financial year to be allowed to British ships carrying boys between the ages of 15 and 19, enrolled in the Royal Naval Reserve, in accordance with a scale and regulations made by the Board of Trade.

7.—Definitions.

8.—Repeal.—See Schedule 4.

9.—Short Title, etc.

SCHEDULE 1.—MAXIMUM FEES PAYABLE.

1.—Registration.—Vessels under 50 tons gross, 20s.; 50 to 100 tons, 30s.; 100 to 200 tons, 40s.; and 10s. for every additional 100 tons or part thereof.

2. Transfer and Mortgage.—According to gross tonnage represented by ships or shares:—Under 10 tons, 2s. 6d.; 10 to 20 tons, 5s.; 20 to 30 tons, 7s. 6d.; 30 to 40 tons, 10s.; 40 to 50 tons, 12s. 6d.; 50 to 75 tons, 15s.; 75 to 100 tons, 17s. 6d.; 100 to 125 tons, 20s.; and 2s. 6d. for every additional 50 tons up to 500 tons, and then 2s. 6d. for every 100 tons or part thereof beyond 500 tons.

SCHEDULE 2.—LIGHT DUES.

1. Home-trade sailing ships, 1d. per ton per voyage.

2. Foreign-going sailing ships, 2½d. per ton per voyage.

3. Home-trade steamers, 1½d. per ton per voyage.

4. Foreign-going steamers, 2½d. per ton per voyage.

5. Tugs and pleasure yachts, an annual payment of 1s. per ton.

A home-trade ship need not pay dues for more than 10 voyages in any one year; a foreign-going ship, for more than 6 voyages; and ships in both trades, for more than 10 voyages, a foreign voyage counting as 1½ voyages. And no steamer to be required to pay more than 1s. 4½d. per ton, and no sailing vessel more than 1s. 1½d. per ton, in any one year.

A ship not required to pay dues both as a home-trader and foreign-going ship on the same voyage. A ship arriving within home-trade limits from a port outside home-trade limits is deemed on a foreign-trade voyage till at the last port of discharge of cargo or passengers from abroad; and *vice versa* on first taking cargo or passengers on a foreign-trade voyage.

A home-trade voyage is reckoned from port to port, but dues are not chargeable for more than 8 voyages in one month. A foreign-trade outward voyage is reckoned from the first port of lading in the U.K. or Isle of Man; and the inward voyage from the last port of lading abroad.

Dues payable per voyage are collected at port of discharge or loading. Annual payments are due at the commencement of the financial year, a new vessel paying 1*d.* per ton per month from her first voyage till April 1.

Tonnage is reckoned under the Merchant Shipping Act, 1894, including deck cargo under Section 85; if unregistered, then in accordance with Thames measurement adopted by Lloyd's Register.

Exemptions.—The following are exempt from the above dues:—H.M. Ships. Foreign Government ships. Sailing ships under 100 tons, and all ships under 20 tons, not being pleasure yachts. Vessels in ballast; earning no freight. Ships putting in solely for bunker coal, stores, or provisions for their own use. Vessels employed in the fisheries. Ships putting in solely for shelter or repair. Yachts and pleasure boats under 5 tons register.

SCHEDULE 3.

Gives a list of Colonial Lighthouses maintained under the Board of Trade.

SCHEDULE 4.

Enactments Repealed, affecting the Merchant Shipping Act, 1894:—Section 194; Section 648, so far as it affects levying of light dues; and Sections 644, 645, 646, 673, and 678, as to light dues, etc.

MERCHANT SHIPPING (LIABILITY OF SHIPOWNERS AND OTHERS) ACT, 1900.

(63 and 64 Vict. Ch. 32.)

1.—Further Limitation of Liability.—The limitation of liability of shipowners under Section 503 is extended to loss or damage caused to property or rights on land or water, fixed or movable.

2.—Dock or Canal owners and Harbour or Conservancy Authorities are also similarly limited in their liability for damage or loss to vessels or goods, etc., on board them, to an amount not exceeding £8 per ton of the tonnage of the largest registered British ship which within 5 years of such damage has entered the area of such dock, canal, etc. Such ship will not include any ship only built or fitted out, or sheltering or passing through, or landing or embarking mails and passengers.

The tonnage of ships to be ascertained under Section 503; and Section 504 shall also apply to the above. The term "dock" includes locks, dry docks, quays, piers, etc.

3.—Several Claims arising upon any one distinct occasion are limited to the above amount in respect of compensation.

4.—Short Title.

5.—Act to be construed as one with Merchant Shipping Act, 1894.

MERCHANT SHIPPING ACT, 1906.

(6 Edw. 7. Ch. 48.)

PART I.—SAFETY.

1.—Load-line on Foreign Ships.—Sections 437 to 443 of the Act of 1894, relating to load-line, are to apply to all foreign ships in ports of the United Kingdom, except that the statement need not be made in the official log or crew's agreement.

2.—Detention of Foreign Ships.—Section 462 also applies in case of a foreign ship being unsafe by reason of defects in hull, equipment, or machinery.

3.—Grain Cargo on Foreign Ships.—After October 1, 1907, Sections 452, 454, and 455 will also apply to foreign ships loading or discharging grain cargo in the U.K.

4, 5.—Life Saving Appliances.—Sections 427 to 431, relating to life-saving appliances, will also apply to all foreign ships in ports of the U.K., from January 1, 1909, or a later day appointed by the Board of Trade.

6.—The above provisions (1 to 5) will not apply to foreign vessels putting into a port of the U.K. under stress of weather, &c.

7.—Coasting Steamers.—Sections 437 and 438, as to deck-lines and load-lines, will also apply to coasting steamers under 80 tons register, if they carry cargo.

8.—Load-lines.—Section 440, as to time of marking load-lines, will also apply to foreign foreign-going ships. The load-line may be altered abroad, if in accordance with regulations made by the Board of Trade.

9.—Boat-drill, &c.—The master of a British ship must enter in the official log, or keep a record of, boat-drill and examinations of life-saving appliances, under penalty of £10.

10.—Timber Deck Cargo.—States the conditions under which wood goods may be carried as deck cargo, in British or foreign ships, arriving from a foreign port in a port of the U.K. between October 30 and April 16 (except for vessels putting in only for shelter, &c.).

11.—Grain Cargo.—Summary prosecutions under Section 452 (shifting of grain cargo) may entail a penalty up to £100.

12.—English Seamen, &c.—After December 31, 1907, a seaman will not be allowed to sign an agreement (to serve on a British ship) in a port of the British Isles, or in a European port between the River Elbe and Brest inclusive, if the superintendent or other officer considers he does not possess a sufficient knowledge of the English language. This does not apply to British subjects or lascars.

PART II.—PASSENGER AND EMIGRANT SHIPS.

13.—Foreign Passenger Steamers.—Section 267, defining a passenger steamer, applies also to foreign steamships.

14.—A cabin passenger (Section 268) is defined as paying a fare of £25, or in the proportion of at least 65s. per 1,000 miles.

15.—Tenders.—Vessels landing or embarking passengers by tenders, are considered to land or embark them at the port used by the tender.

16.—Passenger Decks.—No passengers may be carried on more than one deck below the water-line, under a penalty not exceeding £500.

17.—Regulations.—The Board of Trade may prescribe regulations, etc., in substitution of those contained in Schedules 10, 11, 12, 13, and 14 of the Act of 1894.

18.—Copies of the Scale of Provisions must be posted up in emigrant ships, or shown to a steerage passenger on request, under a penalty of 40s. per day on the master, in addition to his liabilities under Section 361.

19.—Embarking.—Steerage Passengers (under Section 328) must be at the place of embarkation before the hour appointed (not necessarily 6 p.m.).

20.—The master's bond (under Sections 309 and 310) may be in the form of a continuing bond as respects that ship, subject to conditions prescribed by the Board of Trade.

21.—Penalty.—The master or owner of a passenger steamer or tender, not having complied with the provisions of the Merchant Shipping Acts as to survey, etc., are liable to a penalty not exceeding £10 for every passenger landed or embarked in the U.K.

22.—Overcrowding.—A passenger steamer must not have on board at any place more passengers than the number allowed on her certificate.

23.—Steerage Tickets.—The provisions of Part III. of the Act of 1894 apply to the sale of steerage passages from any port in Europe outside the Mediterranean Sea.

24.—Penalty for Fraud.—The maximum penalty under Section 353 is increased to £50, or imprisonment not exceeding 3 months.

PART III.—SEAMEN'S FOOD.

25.—Scale of Provisions.—The master must supply the crew with provisions in accordance with Schedule 1 of this Act (which may be altered or amended), or containing a similar amount of nutriment, under a penalty of £100. This Section does not apply to lascars, etc.

26.—Inspection of Provisions and Water.—An inspector appointed under Section 206 may inspect the provisions and water for the crew of any British ship leaving a port in the U.K., before shipment if practicable within 48 hours of notice being given to him, and may again inspect them on board. If found to be deficient in quality, the master or owner are liable to a penalty up to £100. Refusal to give reasonable facilities for inspection entails a penalty of £10.

27.—Certificated Cooks.—After June 30, 1908, every British ship of 1,000 tons gross or upwards, leaving a port in the U.K. or on the European coast between the River Elbe and Brest, must carry a cook holding a Board of Trade certificate, or at least 2 years service as cook previous to that date. This is in addition to the cook required by Section 304 in an emigrant ship. Failure to comply entails a penalty of £25 on master or owner.

PART IV.—RELIEF AND REPATRIATION OF DISTRESSED SEAMEN, ETC.

28.—Seamen left abroad.—If seamen on a British ship be left behind abroad, without a settlement with them, the master must enter a statement of their effects left on board and wages due in the official log, and on the termination of the voyage furnish the superintendent or other proper officer with an account thereof and of expenses incurred owing to their absence, &c. (under Section 221), and hand to such officer the effects and balance of wages due after deduction of such expenses as may be allowed. Failure to comply with the provisions of this Section entails a penalty of £20, or a false statement will render the master guilty of a misdemeanour.

29.—Seamen dying on board.—The provisions of Part II. of the Act of 1894, regarding the property of deceased seamen, apply also to a British ship terminating her voyage in a port outside the U.K.

30.—Discharge of Seamen outside the U.K.—The master of a British ship may not discharge a seaman abroad (except in a port of the country in which he was shipped), without the consent of the proper authority (see Section 49) endorsed on the crew's agreement. Failure to comply renders the master guilty of a misdemeanour.

31.—A Certificate of Discharge abroad must be given to a seaman, or the certificate of an officer returned to him.

32.—Repatriation of Seamen.—A seaman discharged abroad without his consent must have adequate provision made for his maintenance and return to a proper port, and the proper authority shall endorse particulars upon the crew's agreement. Expenses of failure to comply are recoverable as wages due, or by a charge upon the ship or owner, unless the seaman has been guilty of barratry. This section does not apply to foreign seamen shipped and discharged at ports outside the U.K.

33.—Discharge on Change of Ownership abroad.—On a British ship changing ownership in a foreign port, the seamen are discharged unless they consent in writing to remain.

34.—Medical Expenses.—A master or seaman injured in the service of the ship, or falling ill (unless the disease be due to his own misbehaviour) must be provided with proper medical and surgical aid and maintenance, and with burial in case of death, without any deduction from wages.

35.—Recovery of Expenses under Section 34.—An authority incurring such expenses may recover them from the master or owner, or by a charge upon the ship.

36.—Seamen left abroad.—A master leaving a seaman abroad, except in accordance with the Merchant Shipping Acts, must obtain a certificate of the reason endorsed on the agreement by the proper authority. Failure to comply renders the master guilty of a misdemeanour.

37.—Account of Wages.—The master must pay wages due to a seaman left abroad in a British possession as unfit or unable, or to the British consular officer in a foreign port, and the latter must endorse a receipt on a duplicate statement to be delivered to the superintendent or other authority on arrival of the master at his destination. Failure to comply entails a penalty of £10.

39.—Wages of Seamen so left abroad.—The consular officer may deduct from such wages expenses incurred in maintenance of such seamen.

40.—Relief of Distressed Seamen.—The Board of Trade to make regulations for relief, maintenance, and return of seamen shipwrecked or in distress abroad.

41.—Provision for Relief, &c.—The expenses of carrying out such regulations shall be repaid to the proper authority by the Board of Trade.

42.—Such expenses, unless incurred for a seaman deserting or guilty of misconduct, or lawfully discharged, shall be recoverable by a charge upon the ship, master, or owner.

43.—Penalty.—A person wrongfully leaving a seaman behind is guilty of a misdemeanour.

44.—Fines on Seamen.—Fines imposed under the crew's agreement are to be deducted from wages, and paid to the superintendent or other authority before whom the crew is discharged, who will remit them to the Board of Trade. Failure to pay over such fines entails a penalty up to six times the amount.

45.—Return Port.—This may be the port at which the seaman was shipped, or a port in the country to which he belongs, or any port agreed upon at the time of discharge. In the case of a British seaman shipped and discharged outside the U.K., a port in the U.K. may be considered as a return port.

46.—Returned Seamen may be placed on board a British ship in want of men, or be provided with a passage or his expenses for the same, or the master may deposit such expenses with the proper authority.

47.—Questions as to return port, route, etc., shall be decided by the proper authority.

48.—Conveying Distressed Seamen.—The proper authority must endorse on the crew's agreement a description of the seamen placed on board a British ship for return to his port. The master of a British ship must when required receive and maintain distressed seamen, not exceeding one

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for every 50 tons burden, and on production of a certificate signed by authority shipping them, with proper accounts, will be repaid such the Board of Trade may allow. Failure to comply with this Section a penalty of £100.

49.—Proper Authority means a British consular officer or merchants in a foreign port; in discharging seamen, a superintendent or customs chief officer; or, for distressed seamen, the governor or person appointed by him. Seamen include apprentices. These provisions (Part II.) also apply to Sections 260 to 266 of the Act of 1894.

PART V.—MISCELLANEOUS.

50.—Ships' Names.—The Board of Trade may refuse to register a proposed name if similar to one already on the register.

51.—Title of Registered Ship.—Should the Customs or other authority doubt the title of a vessel to be on the British register, they may require evidence as to the right; and if satisfactory evidence be not produced within a space of not less than 30 days, the ship is liable to forfeiture.

52.—Mortgages on Ships sold to Foreigners.—Any unsatisfied registered mortgage on a ship sold to foreigners may be enforced should the ship come within the jurisdiction of a competent British court.

53.—Alterations in Ships.—Failure to register the alteration of a ship renders the owner liable to a penalty up to £100, and a fine of £5 per day after conviction till it be registered.

54.—Water Ballast.—With regard to Section 79 (1894), the space adapted only for water ballast may be deducted in ascertaining the register tonnage.

55.—Tonnage of Foreign Ships.—Under Section 84 (1894), space deducted or the crew may be inspected by a surveyor to see if it complies with the provisions of the Act.

56.—Officers' Certificates.—The second mate of a foreign-going sailing ship of not more than 200 tons is also eligible under (b.) of Section 92.

57.—Master's Wages.—In an action for unreasonable delay in payment of a master, the court may award an additional sum.

58.—A.B. Seaman.—(Amending Section 126). Must have served at least 3 years before the mast; the employment in fishing vessels is reduced to 2 years. Any seaman making a false statement is liable to a penalty of £5.

59.—Disrating a Seaman must be entered in the official log, and a copy of the entry given to the seaman.

60.—Excepted Claims.—In regard to Section 136, a seaman may except from the release signed by him any specified claim against master or owner.

61.—Allotment Notes.—Under Section 141, the officer before whom a seaman is engaged shall enter a stipulation in the agreement as to allotment of wages should the seaman so desire after signing on.

62.—Payments under an allotment note are to be made at intervals of one month.

63.—Remitting Seamen's Wages.—A master must, under a penalty of £5, give facilities to a seaman wishing to remit home any balance above £10 due to him, unless the amount only becomes payable before leaving port, or conditionally on the seaman going to sea in the ship.

64.—Increase of Crew Space.—In Section 210 the spaces named are not to be less than 120 cubic feet and 15 superficial feet. In estimating these spaces, allowance may be made for space used for messing, baths, or washing, so that the sleeping space be not less than 72 cubic feet and 12 superficial feet. This does not affect ships registered before the passing of the 1906 Act, or in construction on January 1, 1907; or ships not above 800 tons burden; or fishing boats; or lascar accommodation.

65.—Desertion, &c.—An engaged seaman who, after negotiating his advance note, wilfully fails to join his ship, is liable to a fine of £5, or 21 days imprisonment, and the Board of Trade may withhold his discharge certificates.

66.—Appeals, Shipping Casualties.—Where an application for re-hearing has not been made under Sections 475 or 478, or has been refused, the owner or any other person affected may appeal in the same way as a master may appeal against the cancellation or suspension of his certificate.

67.—Powers of Naval Courts.—Under Section 488, a sentenced offender may be sent home or to any British possession for imprisonment, as most convenient, in the same way that a consular officer may proceed under Section 689.

68.—Appeal from Naval Courts.—Decisions as to wages, fines, or forfeitures may be appealed against to the High Court.

69.—Limitation of Liability.—In Section 508. The tonnage of a steamship, in this connection, shall be her registered tonnage with the addition of any engine-room space which was deducted in ascertaining that tonnage.

70.—Amends Section 1 of the Merchant Shipping (Liability of Ship-owners) Act, 1898 (*see page 1*).

71.—Liability of Charterers.—In Sections 502 to 509 the word "owner" is to include any charterer to whom the ship is demised.

72.—Delivery of Wreck to Receiver.—Section 518 will apply to wreck found outside and brought within the limits of the U.K.

73.—Alien Pilotage Certificates.—After December 21, 1906, a pilotage certificate (under Sections 599, 600, and 604) will only be granted to a master or mate who is a British subject; but this does not affect the renewal of certificates granted to foreigners before June 1, 1906.

74.—Control of Officials.—In the U.K., all superintendents and other persons employed in Mercantile Marine Offices are to be appointed and removable by, and under the control of, the Board of Trade, unless subject by law to the control of any other government department.

75.—Surveyors may be appointed under Section 724 as ship (formerly shipwright), surveyor or engineer surveyor, or as both.

76.—Particulars of Passengers.—The master of a British or foreign ship landing from, or embarking passengers to, places abroad, must give a return of numbers, &c., as may be required by the Board of Trade, under a penalty of £20.

77.—Cattlemen.—The master of a ship bringing cattlemen into the U.K. from abroad, must furnish the Secretary of State with particulars required by him, under a penalty of £100; and a cattlemen refusing, or giving false, information may be sentenced to imprisonment with hard labour not exceeding 3 months.

78.—Special Powers of Exemption.—The Board of Trade may, under circumstances considered fit, exempt any ship from any requirement of the Merchant Shipping Acts, so long as such requirements are practically complied with or exceeded; but must furnish an annual return of such cases to Parliament.

79.—Advisory Committees may be appointed by the Board of Trade on matters connected with the Merchant Shipping Acts.

80.—Government Ships, not forming part of H.M. Navy, may by Order in Council be registered as British ships for the purposes of the Merchant Shipping Acts.

81.—Application to Scotland.—Sections 413 to 416 (relating to certificates of skippers and second hands on trawlers) will apply to trawlers of 25 tons and upwards going to sea from Scotch ports.

82.—Procedure in Scotland.—Section 287, as to stowaways, and Section 680, as to prosecution of offences, apply to Scotland. In Section 702, prosecution by criminal libel is expunged.

83.—Scottish Whalers off Scotch coasts not affected by Section 744.

PART VI.—SUPPLEMENTAL.

84.—Explains references to Merchant Shipping Acts.

85.—Enactments repealed, detailed in Schedule 2.

86.—**Short Title.**—This Act may be cited as the Merchant Shipping Act, 1906, and comes into force on June 1, 1907, except where otherwise expressly provided.

SCHEDULE I.—SCALE OF PROVISIONS.

	Water.	Soft Bread.	Biscuit.	Salt Beef.	Salt Pork.	Preserved Meat.	Fish.	Potatoes.	Dried or Com-pressed Vege-tables.	Pear, Split.	Peas, Green.	Calavances or Haricot Beans.	Flour.	Rice.
	qts.	lbs.	lbs.	lbs.	lbs.	lbs.	lb.	lbs.	lb.	pint.	pint.	pint.	lbs.	lb.
Sunday -	4	1	—	$\frac{1}{2}$	—	$\frac{1}{2}$	—	—	—	—	—	—	$\frac{1}{2}$	—
Monday -	4	—	1	—	1	—	—	—	—	—	—	—	—	$\frac{1}{2}$
Tuesday -	4	1	—	$1\frac{1}{2}$	—	—	—	—	—	—	—	—	$\frac{1}{2}$	—
Wednesday -	4	—	1	—	—	$\frac{1}{2}$	—	—	—	—	—	—	$\frac{1}{2}$	—
Thursday -	4	1	—	—	1	—	—	—	—	—	—	—	—	$\frac{1}{2}$
Friday -	4	—	1	—	—	$\frac{1}{2}$	$\frac{1}{2}$	—	—	—	—	—	—	—
Saturday -	4	—	1	$1\frac{1}{2}$	—	—	—	—	—	—	—	—	$\frac{1}{2}$	—
Weekly	28	3	4	3	2	$2\frac{1}{2}$	$\frac{1}{2}$	6	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	2	$\frac{1}{2}$

	Oatmeal.	Tea.	Coffee.	Sugar.	Milk, Condensed.	Butter.	Marmalade or Jam.	Syrup or Molasses.	Suet.	Pickles.	Dried Fruits.	Fine Salt.	Mustard.	Pepper.	Curry Powder.	Onions.
	oz.	oz.	oz.	lbs.	lb.	lb.	lb.	lb.	oz.	pt.	oz.	oz.	oz.	oz.	oz.	oz.
Sunday -	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Monday -	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3
Tuesday -	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Wednesday -	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Thursday -	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Friday -	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Saturday -	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Weekly	8	$1\frac{1}{2}$	4	$1\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	1	$\frac{1}{2}$	4	$\frac{1}{2}$	5	2	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	3

1. The provisions for which only a weekly total is given to be reasonably distributed throughout the week.

2. Soft bread is not compulsory in ships of less than 1,000 tons gross register; or if rough weather renders baking impracticable; or in any ship in which the crew's agreement is dated before January 2, 1908; but where not issued an equivalent amount of biscuit must be issued instead.

3. An equal quantity of fish, not exceeding 12oz. in a week, may be substituted for preserved meat. Fish must be fresh or dried, or canned salmon or herrings.

4. Within the Tropics, 1½lbs. of preserved meat or 8lbs. of fresh meat may be substituted for 2lbs. of salt pork.

5. Fresh potatoes to be issued for at least first 8 weeks on ships leaving a port within home-trade limits between September 30 and May 1; and at any other time when procurable at a reasonable cost. If not so issued, then an equal amount of yams or tinned vegetables; or dried or compressed potatoes or vegetables in the proportion of 1lb. to 6lbs. of fresh potatoes.

6. Fresh or tinned vegetables may be substituted at the rate of 8oz. to 1oz. of dried or compressed vegetables.

7. A mixture of coffee and chicory (of not less than $\frac{1}{2}$ coffee) may be substituted at the rate of 5oz. to 4oz. of coffee.

8. Dried fruits are raisins, sultanas, currants, figs, or prunes.

9. Onions to be fresh when in season; when not in season, the substitutes are the same amount of tinned onions or vegetables, or 1oz. of dried onions or vegetables to 8oz. of fresh onions.

10. In port, soft bread is to be issued instead of biscuit; and when reasonable in cost 1½ lbs. of fresh meat and 8 oz. of fresh vegetables to be issued daily in place of salt and preserved meat and dried or compressed vegetables.

11. Stokehold hands to receive sufficient oatmeal and one quart of water extra daily while under steam.

SUBSTITUTES AND EQUIVALENTS.—NOT TO BE USED WITHOUT REASONABLE CAUSE :—1½ lbs. fresh meat, 1 lb. salt meat, 12 oz. preserved meat, to be considered equal. $\frac{1}{2}$ oz. coffee, $\frac{1}{2}$ oz. cocoa, $\frac{1}{2}$ oz. tea, equal. 1 lb. of flour, biscuit, or rice, equal. $\frac{1}{2}$ pint split peas, 12 oz. flour, $\frac{1}{2}$ pint calavances or haricot beans, 12 oz. rice, equal when issued with meat rations. 1 lb. marmalade or jam, 8 oz. butter, equal; mustard and curry powder are considered equal.

SCHEDULE 2.—ENACTMENTS REPEALED.

In addition to the foregoing alterations, etc., the following provisions of the Merchant Shipping Act, 1894, are repealed :—

Section 144; Payment of Allotment Notes.

Sections 186 to 193; Leaving Seamen Abroad and Distressed Seamen.

Sections 207 and 208; Expenses of Medical Attendance.

Section 285; Deduction of Fines from Wages.

Section 291; Regulations as to Passengers.

Section 299; Power of Board of Trade to Exempt Ships.

Schedules 10, 11, 12, 13, and 14, when other regulations, etc., are prescribed by the Board of Trade in their place.

MARINE INSURANCE ACT, 1906.

(6 Edw. 7. Ch. 41.)

This Act embraces 94 Sections and 2 Schedules, coming into force on January 1st, 1907. It is practically a codification of the former Acts dealing with this subject, viz.:—19 Geo. 2, c. 37; 28 Geo. 3, c. 56; and 31 and 32 Vict., c. 86; which it supersedes. It also sanctions legal decisions on certain points which have been fruitful sources of litigation.

WORKMEN'S COMPENSATION ACT, 1906.

(6 Edw. 7. Ch. 58.)

This Act repeals the Workmen's Compensation Acts, 1897 and 1900, and comes into force on July 1st, 1907. The provisions apply to masters, seamen, and apprentices, being workmen and members of the crew of a British ship, and whose remuneration does not exceed £250 a year.

1.—Liability of Employers.—An employer is liable to pay compensation, in accordance with the provisions of Schedule 1, if personal injury to a workman by accident arises out of and in the course of his employment; but the employer is not liable in respect of any injury disabling a workman for less than one week from earning his full wages.

Should the injury be caused by negligence or wilful act of the employer or one responsible to him, the workman may claim compensation either under this Act or independently of it.

Should the injury be attributable to the serious and wilful misconduct of the workman, compensation will be disallowed, unless it result in death or serious and permanent disablement.

2.—Notice of an accident must be given to the employer as soon as practicable and before the workman has voluntarily left the employment; and compensation must be claimed within 6 months of the accident or time of death; unless there is reasonable cause to the contrary.

3.—Contracting out of the provisions of this Act is only legal where the Registrar of Friendly Societies certifies that an alternative scheme of compensation is not less favourable to workmen and their dependants, but individual workmen cannot be forced to accept such alternative scheme, and it is liable to be modified or revoked.

4.—Sub-contracting.—The principal remains liable to pay compensation for injury on or about his work or premises (except in the case of agricultural machinery when the contractor is solely liable), but he may be indemnified by the person actually responsible for the accident.

5.—Provides as to insurance by employers, in case of bankruptcy, etc.

6.—Where injury is caused under circumstances creating a legal liability in some person other than the employer, the latter is entitled to be indemnified by such person.

7.—Application of Act to Seamen.—Notice of accident and compensation claim may be served on the master, but notice is not necessary if the accident happened on board the ship. In case of death, the claim must be made within 6 months after news of the death reached the claimant; or within 18 months of the date at which the ship is deemed to have been lost with all hands.

This Act does not apply to the crew of a fishing vessel remunerated by shares in the profits or gross earnings; but it applies to pilots employed on a ship.

8.—Application of the Act to Industrial Diseases, viz.:—Anthrax, lead, mercury, phosphorus, or arsenic poisoning, and ankylostomiasis.

9.—Act does not apply to persons in military or naval services.

10.—Appointment, &c., of Medical Referees, &c.

11.—Detention of Ships.—Where the owners (liable to pay compensation) do not reside in the United Kingdom, the ship may be detained by order of any court of record in England or Ireland, and Section 692 of the Merchant Shipping Act, 1894, applies in case of such detention.

12.—Employers may be required to furnish the Secretary of State with a return specifying injuries, compensation paid, etc.

13.—Definitions.—A “workman” does not include a person employed casually or otherwise than for the purpose of the employer's trade or business, or an out worker; but otherwise includes manual labour, clerical work, or other employment, where the remuneration does not exceed £250 a year. Dependents may be legitimate or illegitimate.

14.—Special Provisions as to Scotland. **15.—Existing Contracts and Compensation Schemes.** **16.—Repeal, &c.** **17.—Short Title.**

SCHEDULE 1.

Compensation.—Where death results from an injury, those wholly dependant may claim a sum equal to that earned under the same employer during the three years preceding, or the sum of £150, whichever be the larger sum, but not to exceed £300. If the employment has been less than 8 years, then the sum shall be 156 times the average weekly earnings. Where not wholly dependant, a sum to be agreed upon. Where there are no dependants, a sum not exceeding £10 for medical and burial expenses.

Where total or partial incapacity results from injury, a weekly payment not exceeding 50 per cent. of the average weekly earnings, but not to exceed 20s. No compensation is payable for the first week if incapacity lasts less than 2 weeks; and in the case of a workman under 21, with average earnings less than 20s. weekly, the average weekly earnings shall be paid in full, but not to exceed 10s.

Where the injured workman is able to earn money after the accident, the weekly payment is not to exceed the difference between the weekly earnings before and after the accident.

The employer has the right to require any injured workman receiving weekly payments to submit to medical examination from time to time; should he object, such payments may cease.

Any weekly payment is subject to be ended, diminished, or increased; or it may be redeemed by purchase of an annuity or payment of a lump sum, registered in accordance with this Act.

Schedule 2.—This provides for Arbitration, etc.

PREVENTION OF CORRUPTION ACT, 1906.

(6 Edw. 7. Ch. 34.)

This Act, to prevent the nefarious system of secret commissions in business matters, comes into force on January 1st, 1907.

1.—Any agent corruptly accepting or obtaining any gift or consideration as an inducement or reward for doing or forbearing to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or any person acting in a similar way to any agent; or any person knowingly giving to any agent, or any agent using with intent to deceive his principal, any receipt, account, etc., containing any false, erroneous, or defective statement; will be guilty of a misdemeanour, and liable to imprisonment with or without hard labour for 2 years, or a fine of £500, or both.

2.—Provides for prosecution of such offences.

3.—Application of the Act to Scotland.

4.—Short Title.

NEW REGULATIONS RESPECTING THE LIGHTS CARRIED BY, AND THE SIGNALS MADE FROM FISHING VESSELS.

(These Regulations date from May 1st, 1906.)

Mariners are hereby informed that the Merchant Shipping Act, 1894, has been amended with respect to the lights carried by, and the signals made from fishing vessels, as follows:—

ART. 9.—Fishing vessels and fishing boats, when under way and when not required by this Article to carry or show the lights hereinafter specified, shall carry or show the lights prescribed for vessels of their tonnage under way.

(a) Open boats, by which is to be understood boats not protected from the entry of sea water by means of a continuous deck, when engaged in any fishing at night, with outlying tackle extending not more than 150 feet horizontally from the boat into the seaway, shall carry one all-round *white* light.

Open boats, when fishing at night, with outlying tackle extending more than 150 feet horizontally from the boat into the seaway, shall carry one all-round *white* light, and in addition, on approaching or being approached by other vessels, shall show a second *white* light at least 3 feet below the first light and at a horizontal distance of at least 5 feet away from it in the direction in which the outlying tackle is attached.

(b) Vessels and boats, except open boats as defined in subdivision (a), when fishing with drift nets, shall, so long as the nets are wholly or partly in the water, carry two *white* lights where they can best be seen. Such lights shall be placed so that the vertical distance between them shall be not less than 6 feet, and not more than 15 feet, and so that the horizontal distance between them, measured in a line with the keel, shall be not less than 5 feet and not more than 10 feet. The lower of these two lights shall be in the direction of the nets, and both of them shall be of such a character as to show all round the horizon, and to be visible at a distance of not less than 3 miles.

Within the **Mediterranean Sea** and in the seas bordering the coasts of **Japan** and **Korea** sailing fishing vessels of less than 20 tons gross tonnage shall not be obliged to carry the lower of these two lights; should they, however, not carry it, they shall show in the same position (in the direction of the net or gear) a *white* light, visible at a distance of not less than one sea mile, on the approach of or to other vessels.

(c) Vessels and boats, except open boats as defined in sub-division (a), when line-fishing with their lines out and attached to or hauling their lines, and when not at anchor or stationary within the meaning of sub-division (h), shall carry the same lights as vessels fishing with drift-nets. When shooting lines, or fishing with towing lines, they shall carry the lights prescribed for a steam or sailing vessel under way respectively.

Within the **Mediterranean Sea** and in the seas bordering the coasts of **Japan and Korea** sailing fishing vessels of less than 20 tons gross tonnage shall not be obliged to carry the lower of these two lights; should they, however, not carry it, they shall show in the same position (in the direction of the lines) a *white* light, visible at a distance of not less than one sea mile, on the approach of or to other vessels.

(d) **Vessels, when engaged in trawling**, by which is meant the dragging of an apparatus along the bottom of the sea—

1. If steam-vessels, shall carry in the same position as the white light mentioned in Article 2 (a), a tricoloured lantern so constructed and fixed as to show a *white* light from right ahead to two points on each bow, and a *green* light and a *red* light over an arc of the horizon from two points on each bow to two points abaft the beam on the star-board and port sides respectively; and not less than 6 nor more than 12 feet below the tricoloured lantern a *white* light in a lantern, so constructed as to show a clear uniform and unbroken light all round the horizon.
2. If sailing vessels, shall carry a *white* light in a lantern so constructed as to show a clear uniform and unbroken light all round the horizon, and shall also, on the approach of or to other vessels, show where it can best be seen a *white flare-up* light or torch in sufficient time to prevent collision.

All lights mentioned in sub-division (d) 1 and 2 shall be visible at a distance of at least 2 miles.

(e) Oyster dredgers and other vessels fishing with dredge nets shall carry and show the same lights as trawlers.

(f) Fishing vessels and fishing boats may at any time use a *flare-up* light in addition to the lights which they are by this Article required to carry and show, and they may also use working lights.

(g) Every fishing vessel and every fishing boat under 150 feet in length, when at anchor, shall exhibit a *white* light visible all round the horizon at a distance of at least one mile.

Every fishing vessel of 150 feet in length or upwards, when at anchor, shall exhibit a *white* light visible all round the horizon at a distance of at least one mile, and shall exhibit a second light as provided for vessels of such length by Article 11.

Should any such vessel, whether under 150 feet in length, or of 150 feet in length, or upwards, be attached to a net or other fishing gear, she shall on the approach of other vessels show an additional *white* light at least 3 feet below the anchor light, and at a horizontal distance of at least 5 feet away from it in the direction of the net or gear.

(*h*) If a vessel or boat when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction, she shall in daytime haul down the day-signal required by sub-division (*k*); at night show the light or lights prescribed for a vessel at anchor; and during fog, mist, falling snow, or heavy rain-storms make the signal prescribed for a vessel at anchor. (See sub-division (*d*), and the last paragraph, of Article 15.)

(*i*) In fog, mist, falling snow or heavy rain-storms, drift-net vessels attached to their nets, and vessels when trawling, dredging, or fishing with any kind of drag-net, and vessels line-fishing with their lines out, shall, if of 20 tons gross tonnage or upwards, respectively, at intervals of not more than one minute make a blast: if steam vessels, with the whistle or syren; and if sailing vessels with a fog-horn; each blast to be followed by ringing the bell. Fishing vessels and boats of less than 20 tons gross tonnage shall not be obliged to give the above-mentioned signals; but if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.

(*k*) All vessels or boats fishing with nets or lines or trawls, when under way, shall in daytime indicate their occupation to an approaching vessel by displaying a basket or other efficient signal where it can best be seen. If vessels or boats at anchor have their gear out, they shall, on the approach of other vessels, show the same signal on the side on which those vessels can pass.

The vessels required by this Article to carry or show the lights hereinbefore specified shall not be obliged to carry the lights prescribed by Article 4 (*a*), and the last paragraph of Article 11.

By Section 419 of the *Merchant Shipping Act*, 1894, it is enacted that wilful infringement of the above regulations by the master or owner is accounted a misdemeanour (punishable by fine or imprisonment); and, if damage occur in consequence, the ship will be deemed at fault, unless circumstances made a departure from the regulations necessary.

By Section 422, in case of collision the master or person in charge must, so far as he can do so without danger to his own vessel or persons on board her, render such assistance to the other vessel as may be practicable, and stay by her until no further assistance is required. Failure to do so, without reasonable cause, will cause such master or person to be held responsible, and guilty of a misdemeanour.

LIGHTS FOR STEAM PILOT-VESSELS.

Order in Council of 18th August, 1892.—Re Article 8.

A Steam Pilot-vessel exclusively employed for the service of Pilots licensed or certified by any Pilotage Authority or the Committee of any Pilotage District in the United Kingdom, when engaged on her station on Pilotage duty and in British waters and not at anchor, shall, in addition to the lights required for all Pilot boats, carry at a distance of eight feet below her white mast-head light a *red* light visible all round the horizon, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles, and also the coloured side lights required to be carried by vessels when under way.

When engaged on her station on Pilotage duty and in British waters and at anchor she shall carry, in addition to the lights required for all Pilot boats, the *red* light above mentioned, but not the coloured side lights.

When not engaged on her station on Pilotage duty she shall carry the same lights as other steam vessels.

STEERING ORDERS ON GERMAN AND DUTCH SHIPS.

STARBOARD or PORT.

The following is important to Shipmasters :—

For over twelve months the minds of nautical men have been disturbed by the enactment of a German ordinance which related in brief that, " From April 1, 1904, only such steering orders shall be employed as indicate the position of the rudder-blade, and not that of the tiller. From April 1, 1905, onwards, the words ' starboard ' and ' port ' are to be used exclusively, with the additions so far as is required which indicate the measure of the direction of the rudder ; up to that date the words ' right ' and ' left ' are also permissible."

The enactment, despite British opposition, came into force on April 1, 1905, and shipmasters have reported to the Mercantile Marine Service Association from time to time of the danger attending the alteration, and in some cases of narrow escapes they had of disaster owing entirely to the local orders of German and Dutch Government pilots. The Association have been in correspondence with the Board of Trade and are now in receipt of the following communication :—

Marine Department, Board of Trade,

London, S.W., Aug. 10, 1905.

Sir—With reference to the difference which exists between the meaning of the terms used in giving steering orders on board British ships and that of the words now used in the vessels of certain other Maritime Powers, I am directed by the Board of Trade to state that their attention has been called to the serious risk of misunderstanding which may arise when British ships are in charge of foreign pilots who use steering orders in a sense contrary to the meaning they bear in this country.

In order to lessen the possibility that casualties may be caused by any misapprehension of this kind, the Board of Trade desire me to point out that, although German and Dutch Government pilots are instructed to carry out the amended steering rule which requires the order " Starboard," when the ship's head is intended to go to starboard, and " Port," i.e., " Backboard," when the ship's head is intended to go to port, they are in no wise authorised to give that rudder-command on board British ships, but are bound to indicate to the officer in charge the direction in which they desire the vessel's head to be put, so that the officer in charge may issue his own command as in use on board British ships.—

I am, Sir, your obedient servant, (Signed)

WALTER, J. HOWELL, Assistant Secretary.

The Secretary, Mer. Mar. Ser. Association, Liverpool.

OLIVER'S SHIPPING LAW MANUAL.

OWNERSHIP OF SHIPS.

x

THE owners of British ships must be either—

- (1.) Natural born British subjects; or,
- (2.) Naturalised British subjects, or denizens, resident in Her Majesty's dominions,* or, *as a partner in a British firm*
- (3.) Bodies corporate, established under and subject to British law, having their principal place of business in any part of Her Majesty's dominions.

Any unqualified person retaining any interest in a British ship is liable to forfeiture of such interest to the Crown. If such interest were transmitted to such person by marriage, death, or bankruptcy of any registered owner, such interest must be sold.

The property in a British ship is transferred by bill of sale, in the form given in Schedule 1 of the Act, to be signed by the person who is the registered owner. The new owner makes a declaration of transfer in the proper form, stating that he is entitled to be registered as owner; and to complete the title the bill of sale must then be recorded in the registry of the port to which the ship belongs.

If, however, the ship is newly built, and has not been previously registered, the builder may transfer her to any purchaser, who is thereupon entitled to be registered as owner, on producing the builder's certificate, and the declaration before mentioned.

* A British subject who has taken the oath of allegiance to a foreign state, can only be qualified as owner of a British ship if he has *subsequently* taken the oath of allegiance to Her Majesty, and continues, during such ownership, resident in Her Majesty's dominions, or is partner in a British firm.

OWNERSHIP OF SHIPS.

Bills of sale are registered in the order of their presentation to the registrar; and as the registry is the evidence of title to the ship, a bill of sale not registered must give way to a second bill of sale of subsequent date, if the latter is registered first, in which case the other cannot be registered at all.

If the ship is lost, or transferred to persons not qualified to own a British ship, the owners are bound, under a penalty of £100, to give information to the registrar at her port of registry, or the British consular officer if abroad, and deliver up the certificate of registry, if not lost or destroyed, in order that the registry may be closed. 7

REGISTRY OF SHIPPING.

Every British ship must be registered, excepting—

- (1.) Ships not exceeding fifteen tons burden, employed in rivers, or in coasting, &c., in the United Kingdom.
- (2.) Vessels not exceeding thirty tons burden, having no whole or fixed deck, and employed in fishing or coasting on the shores of Newfoundland, and in the Gulf of St. Lawrence.

A ship which is not registered cannot be recognised as a British ship, and is not entitled to the protection offered by the British flag. A ship may be detained until the certificate of registry, or evidence of her nationality, is produced.

If a ship not registered as a British ship wrongfully use the British flag (unless for the purpose of escaping an enemy), she is liable to forfeiture to the Crown. If a British ship use the flag of any foreign state, or any flag to which only Her Majesty's ships are entitled, the master, or owner if on board, is liable to a fine of £500.

The port of registry may be changed if all the persons interested in the ship apply, by writing, to the registrar of the port where the ship is registered.

The register book may be inspected on application to the registrar, or at the London Custom House, for a fee not exceeding 1s.

On the death of any registered owner, his executor or administrator must make a declaration to have his name inserted on the register; or if the owner become bankrupt, the trustee under the bankruptcy

must make a somewhat similar declaration to have his name put on the registry.

The person who appears by the registry to be owner or mortgagee, ⁺¹ is the only person who, on selling, can give a title to the ship.

The ship is supposed to be divided into sixty-four shares, and not more than sixty-four owners can be registered. Any number of persons, however, not exceeding five, may be registered as joint-owners of any shares in the ship. No notice of a trust can be entered on the registry.

THE CERTIFICATE OF REGISTRY.

On the registration of a ship, a certificate of the registry is issued. The certificate is not any ^{proof} evidence of the title to the ship, but is used solely for her navigation; and any person who, without reasonable cause, detains it from the person who is entitled to the possession of it for the purpose of navigating the ship, is liable to a penalty of £100, recoverable by proceedings before the magistrates. ^{imposed by law}

If the master or owner use a certificate which has not been legally granted, he is guilty of a misdemeanour, and the ship is liable to be forfeited to the Crown. ^{under the law}

All changes of owners or masters should be endorsed on the register; and if alterations have been made in the ship, in consequence of which the description contained in the register is no longer accurate, it should be produced to the registrar for correction, or a new register should be obtained. A new certificate of registry can also be obtained, if the old one is worn out or lost, on satisfactory

^{of} proof of the facts. ^X
^{now done}

PART OWNERS.

If no ship's husband has been appointed, and the different part owners of a ship cannot agree as to the voyage on which she is to sail, the majority in value may send her on such voyage as they think fit, on giving to the dissentient minority a security to bring back the ship, or pay the value of their shares, if she be lost, and in

that case the voyage is entirely for the benefit, and at the risk, of the part owners who send her on the voyage; the dissentient owners do not contribute to the cost of the ship's outfit, and they do not participate in any profit she may make by the voyage. The minority may apply to the Court of Admiralty to obtain the above-named security; or if, before the ship is chartered, they give notice to the other owners that they do not agree to the chartering of the ship, then if the charter is carried out and the ship is lost, the loss will fall entirely on the owners who chartered the ship.

A part owner has no right to charge against his co-owners the cost of insuring the ship, unless they have authorised him to insure her.

If the accounts of a voyage are agreed to by a majority of the owners, the remaining owners are bound by it, unless they can show some error in the account.

No part owner can be compelled by his co-owners to sell his share in the ship, unless some definite agreement has been entered into between the co-owners to provide for a sale in the event of disputes occurring between the owners. It is therefore desirable in all cases to have a navigation agreement. (See Appendix of Forms).

MANAGING OWNER, AND SHIP'S HUSBAND.

The name and address of the managing owner, or of the ship's husband, or of the person to whom the ship's management is entrusted, must be registered at the Custom House of the port of registry, or the owners are liable to a penalty of £100.

A registered managing owner is in much the same position as a registered owner with regard to the management of the ship, and is not, unless specifically arranged, entitled to commissions on freights or charters he may procure for the ship. He must also render accounts, within a reasonable time, to the other owners. Their consent is also necessary for extensive structural alterations to the ship.

A ship's husband may be appointed either verbally or by writing; but to prevent disputes, the appointment should always be in writing. (See Appendix of Forms).

When appointed, he becomes the agent of the owners, who are

bound by all acts done by him, within the limits of the authority given to him. He is *prima facie* the agent of all the owners for doing everything necessary for the management of the ship's affairs.

The ship's husband, however, has no implied authority to insure the ship, and if it is desired to give him power to insure, he should be specially authorized to do so by his appointment or otherwise. Neither has he any power to purchase cargo on behalf of the other owners, unless he obtains a special authority to do so. He may, however, order any necessary repairs to be done to the ship, unless he has been expressly forbidden to do so by his co-owners.

At the end of every voyage he ought to make up his accounts within a reasonable time, ready to be inspected by his co-owners; and when the freight is received by him, he should divide it amongst the owners, after deducting the expenses incurred in earning it.

MORTGAGES ON SHIPS.

Any registered ship may be mortgaged by a deed in the form given in the First Schedule to the Act. The deed must be registered by the registrar of the port where the ship is registered; and if there are several mortgages, the one which is registered first is entitled to priority over all registered subsequently, although it may bear a later date than the others.

Every registered mortgagee has power to sell the ship. But no subsequent mortgagee can exercise his powers of sale without the concurrence of all prior registered mortgagees. He may, by endorsement on the mortgage deed, in the form given in Schedule 1, transfer the mortgage; and, if transferred, the transfer should also be registered at the port of registry.

When a mortgagee is paid off, a receipt should be endorsed on the mortgage deed, and registered at the port of registry.

for interest & expenses

CHARTER PARTIES.

A CHARTER PARTY is an agreement for letting to hire the whole or part of a ship.

To constitute a valid charter party, no precise form of words is necessary. So long as the intention is expressed, that is sufficient, and it is not even necessary that the agreement should be in writing; a mere verbal agreement between a shipowner and merchant for the employment of a ship, and acted on by the parties, has been held to be equivalent to a charter party. But, of course, it is very desirable that the charter should be in writing, in order to prevent uncertainty, and in order that the terms of the agreement may, in case of dispute, be more easily proved by either party.

If the shipowner is not on the spot, the captain has an implied authority to enter into all necessary contracts for the navigation of the ship; but if a charter party has previously been entered into by the shipowner himself, then the captain has no authority to substitute a different contract, by entering into a new charter, except under very special circumstances.

If the ship is mortgaged, the shipowner, who is in possession of the ship, has power to enter into contracts for the employment of the ship, if the security is not thereby impaired, and such charters are binding on the mortgagee; but the mortgagee can afterwards obtain the *benefit* of the charter by giving notice to the charterer to pay the freight to him. The only way in which the mortgagee can prevent the owner from chartering, is by taking possession of the ship, under the powers in his mortgage deed; when he takes possession he is entitled to receive all the earnings of the ship then unpaid.

If the charter is entered into by the captain, then he may be sued by the merchant in case of any dispute, unless in signing he expresses that he signs only as agent for the owners.

If the charterer enters into the contract as agent for another party, he should state the name of his principal in the body of the charter, both for the protection of himself, by preventing any *personal* liability

from attaching to him, and also for the protection of the shipowner, by informing him definitely who is the party to be liable to him under the charter.

If a ship belongs to several owners, and no ship's husband has been appointed, or no agreement made as to the navigation of her, the majority in value have the right to employ the ship as they think fit.

CONTENTS OF THE CHARTER PARTY.

As nearly all the rights and liabilities of both the merchant and the shipowner respecting the carriage of the cargo depend on the stipulations contained in the charter, and as both parties are bound by the terms of the contract they enter into by the charter, care should be taken that it contains no provisions which are unusual or which may be prejudicial to the rights of the parties.

Verbal promises should not be relied on by either party, for when the terms of the agreement are reduced to writing, the writing alone will bind the parties, and any merely verbal promise, whether made at the time of signing the charter or not, cannot be enforced by either party. If the parties put the terms of their agreement into writing, the law supposes that they insert the whole of the terms in the writing; and, therefore, it is not allowable for either party to give evidence of any agreement beyond what has been stated in the writing they have signed. But like all other mercantile instruments, a charter may be explained by verbal evidence of the custom of the trade to which it relates, provided that the express words of the charter are not inconsistent with, or opposed to, the custom, in which case the custom would be excluded.

If the charter is for various kinds or qualities of goods, the proportion of each which it is intended to load should be specified: if this is not done, the charterer will be entitled to load the goods in any proportion he pleases.

If the charter party stipulates that the captain is to sign bills of lading at any rate of freight, it should also provide for the payment of the difference between the charter freight and the bill of lading freight in cash at the port of loading before the bills of lading are

signed; otherwise if the bills of lading come into the hands of third parties who have no notice of the terms of the charter, the shipowner will only have a lien on the cargo for the amount of freight named in the bills of lading, and his claim for the balance will be against the charterer, who may in the meantime have become insolvent, or otherwise unable to pay, or may be a foreigner residing out of the jurisdiction of the British Courts.

The freight should be made payable in cash on delivery, if it is desired to have a lien on the cargo to secure payment of the freight. If the freight is payable *after* delivery of the cargo the lien is lost, although the merchant may have become insolvent in the meantime. If it is to be payable by bills, approved bills should be named, if that is intended. ✓

The word "days" in a charter (without specifying whether "working" or "running" days) is considered by law to mean running days, and Sundays therefore are counted, unless by the custom of the port (as at London, for instance) it is the invariable practice to reckon only working days, then working days only will be reckoned, unless otherwise stated in the charter. If it is agreed that only working days are to be counted as lay days, that mode of reckoning will not extend to the demurrage days. After the ship is on demurrage, all days are counted.

If a certain number of days are to be allowed for "loading and discharging," it should be clearly expressed that the number stated is the whole of the time allowed for completing *both* objects, or the merchant may be entitled to the specified time for loading, and the same for discharging.

The exception which exempts the shipowner from liabilities from "dangers and accidents of the seas, rivers, and navigation," has been held to mean only permanent dangers and accidents, and not mere temporary impediments, such as want of water in rivers caused by long continued drought or neap tides; therefore, in the absence of any special stipulation to the contrary, the shipowner takes the risk of having to wait for sufficient water to enable him to reach the port to which he is to proceed.

The charterer has power to sublet either the whole or any part of

the ship to another, and, therefore, if it is intended to prevent him from doing so, it must be so stated in the charter.

If the charter states that the charterer is an agent, and will not be liable after the cargo is shipped, and it turns out that he is in reality the principal, he will be liable, notwithstanding the stipulation in the charter to the contrary.

If the ship is to carry a deck load of timber, or other merchandise, the shipowner will be liable to bear his share of the loss, in general average (if it is *usual* in the trade*), if it is jettisoned, and he cannot recover the amount from his underwriters. To protect the shipowner, therefore, it is necessary that the charter should state that the deck load is to be entirely at the merchant's risk, if that is intended.

By Section 451 of the Merchant Shipping Act, 1894, no British or foreign ship may under penalty arrive in the United Kingdom, between the last day of October and the 16th day of April in every year, carrying a deck load of timber unless the act was necessary or justifiable under the circumstances.

The charter should always contain the usual clause which exempts the shipowner from liability for loss by perils of the sea, &c.

If the ship is chartered for a lump sum, the draught of water should be named in the charter, to prevent the charterer from overloading the ship.

The charter should always provide for a full cargo, if that is intended, otherwise the charterer will only be liable to pay freight on the quantity of goods which he actually puts on board, unless he has agreed to pay a lump sum, at the rate of so much per ton of the ship's capacity, and not according to the quantity of cargo actually carried.

The penalty usually inserted at the end of the charter does not increase the liability of either party in case of a breach of the charter. The person suing on the clause cannot recover more than the amount of damage he has actually sustained, unless it is stated in the charter

* By the York-Antwerp Rules, as revised in Liverpool, in 1890, it is provided that no jettison of deck cargo shall be made good as general average.

that the amount named for the penalty is to be considered as the amount of "liquidated" (or ascertained) damages in case the charter should be broken, and it is clear that the parties intended the penalty to be the measure of the damage for the breach of contract. The naming of a penalty in the charter, however, will prevent the party who sues from recovering *more* than that amount, on the ground that he has himself estimated the maximum amount of the damage he would sustain by the breach of contract, by inserting that sum in the charter.

The clause sometimes inserted in charter parties which stipulates that the cargo shall be bound for the performance of all the conditions of the charter is also practically useless; and whether the charter contains this stipulation or not, the shipowner can only hold the cargo until he is paid those sums for which the law gives him a lien on the cargo. Thus, even without such a provision in the charter, the shipowner can detain the cargo for payment of the freight, general average, &c.; and, if the clause is inserted, he cannot detain the cargo for payment of any charge for which he has not by law a lien on it, such as demurrage, dead freight, or damages for breach of contract, &c.; but he must enforce these claims by action-at-law, unless the charter stipulates that he is to have a lien on the cargo for these claims, and in that case, of course, he can detain the cargo till the amounts are paid.

There is sometimes a clause inserted by which the charterer's liability is to cease on the shipment of the cargo: the shipowner to look to the cargo only for the freight and demurrage which may become due at the port of discharge. And it has been held that such clause exempts the charterer from liability, even although he be also the consignee of the cargo.

PROVISIONS AS TO DEPTH OF WATER, ETC.

If there be any doubt as to the sufficiency of water at the proposed port of discharge, a provision should be inserted in the charter that the merchant shall, if necessary, lighten the ship on arrival at his own expense and risk, otherwise the vessel may have to wait for a

suitable tide to enter the harbour, and the shipowner would have no claim against the merchant for demurrage for the delay.

The shipowner should make inquiries as to the depth of water, &c., at the port to which it is proposed to send the ship, and should not rely on any verbal statements made by the merchant as to how much water there is. If the merchant says there is sufficient water, and it is intended that he should be bound by this statement, he should insert it in writing in the charter, either by saying that the ship is to be lightened at his expense and risk, as named above, or by saying that the lay days are to commence from arrival at the entrance of the port of loading or discharge.

The words "as near thereto as she may safely get," mean as near as the ship can get, unless prevented by some *permanent* obstruction. The ship may, therefore, have to wait for a spring-tide, unless the charter says "so near as she may safely get *immediately after arrival off the harbour*," or other equivalent words. It has been held that the words "as near thereto" must be taken with reference to the port as to which the parties were contracting, and inasmuch as the contract in question related to a tidal harbour, those words had to be explained with reference to that fact. That is, the parties must be assumed to have taken into consideration that in a tidal harbour the ship could reach places within the limits named, at certain states of the tide only, and the delay was no delay on the part of the freighter, but was inevitable, as the water was low when the ship arrived off the harbour. But still, if it is the regular custom of the port to unload or lighten the ship before she gets to the quay, the merchant will be bound to do it in the usual way.

If the ship is chartered to *load* at a certain place, "or so near thereto as she may safely get, and there take a full cargo," this has been held to mean a place to which the ship can safely get, and from which, *when loaded*, she can safely get away at a suitable tide, and if necessary the merchant is bound to load a part of the cargo in the roads at his own expense.

WARRANTIES.

If the shipowner does not carry out the provisions of the charter, it is often a matter of considerable importance to decide whether a merchant has a right to abandon the charter altogether, or whether he still remains bound to fulfil his own part of the contract, with the right to bring an action for damages against the shipowner. This will depend upon whether the stipulation which has been broken by the shipowner is a condition precedent (or warranty) or not. A condition precedent is a condition which is, by the terms of the charter, to be performed by the one party before the other party becomes liable to perform his part of the contract at all. If any stipulation, therefore, which amounts to a condition precedent, has not been complied with by the shipowner, the merchant has a right to abandon the contract altogether, and he can also sue the shipowner for damages for his breach of contract; but, on the other hand, if the matter does not amount to a condition precedent, the merchant will be bound to carry out his part of the contract, and can only sue the shipowner for damages.

Statements in the charter which amount to a warranty, must be strictly complied with. Thus, if the charter describes the ship to be classed A 1, that is considered to be a warranty that the vessel is A 1, and if she is not so, the charterer can repudiate the contract. It is, however, a sufficient compliance with the warranty if the vessel is A 1 at the time the charter is signed; for a statement to the above effect does not imply that she shall continue so during the voyage, or even until she arrives at her place of loading. If the ship is described to be then at a certain place, that is also considered a warranty, and her locality must be correctly stated. In a case where the vessel was described to be "now at sea, having sailed three weeks ago," the vessel having only sailed a fortnight, the charterer was released from his contract. In another case, the vessel was stated in the charter to be "now in the port of Amsterdam," whereas, in fact, she was not there on the day the charter was signed, but was at sea sixty-two miles distant, and reached Amsterdam the next day. In

that case also it was held that the merchant had a right to abandon the charter. In another case, when the ship was wrongly described to be at sea, when, in fact, she had not left port, the statement was held to amount to a warranty, and the merchant was discharged from all liability.

If the charter says the ship shall sail for her port of loading, or arrive there on or before a certain specified day, that is a condition precedent; and if she does not comply with the condition within the time named, the merchant will be entitled to abandon the contract; for if a certain day is named, that time is always considered an essential element in the contract. If the condition is to sail before a certain day, it is a sufficient compliance if the ship quits her moorings before the day named, provided she is then quite ready for sea, and also provided that it is done with the *bona fide* intention of commencing the voyage.

But if the charter only states *generally* (without naming any particular day) that the ship shall sail to a particular port to receive a cargo, then the sailing of the vessel without delay or deviation is not a condition precedent, the non-performance of which would discharge the charterer from liability to furnish a cargo, but the charterer would be liable to furnish the cargo, and could recover damages from the shipowner to compensate him for the loss, if any, sustained by the delay. But if the delay was so unreasonably long that the charterer loses *all* benefit from the intended voyage, or has thereby been prevented from obtaining the cargo, then he will be released altogether from his liability to perform the contract, and he can sue the shipowner for damages.

If the charter says the ship is to arrive at her port of loading before a certain day, unless prevented by stress of weather or unavoidable impediment, then, if *ordinary* diligence be used to reach the port of loading, the merchant will continue bound by the charter if the ship be detained until after the time stipulated, even if the detention be from causes which *extraordinary* exertion might have overcome, for ordinary diligence is all that the shipowner is bound to exercise. Or if the charter says the ship is to sail with all convenient speed, or in a reasonable time, then that is not a condition precedent.

If the merchant becomes entitled to abandon the contract, he must exercise his option as soon as the breach of warranty occurs. If he afterwards does anything in part performance—for instance, if he ships a portion of the cargo, or accepts any benefit from the contract, or if the voyage has been performed—he will then be compelled to complete also his part of the contract by paying the freight. Even if the carrying capacity of the ship be warranted, and the merchant is unable to discover whether the ship will actually carry the quantity named until after he has loaded the cargo, still he cannot after loading the ship refuse to carry out the charter.

If the size of the ship is described to be a certain number of tons, “or thereabouts,” that is considered a representation only, and not a warranty; and therefore, although the description be not strictly correct, if it is made *bona fide*, and without any intention to deceive, the merchant will be bound to carry out the charter, notwithstanding that the ship is larger or smaller than described in the charter, unless the difference is very unreasonable. In a case where the ship was described to be of the measurement of 180 to 200 tons, or thereabouts, but was actually 257 tons, the statement of the tonnage was held not to be a warranty or an unreasonable difference, and it was held that the merchant was bound to load the ship with a full cargo according to his contract. Whether the difference is unreasonable or not is a question for the jury to decide.

The statement in the charter, also, that the ship is “tight, staunch, and strong, and every way fitted for the voyage,” is not by itself a warranty; therefore, if she is not seaworthy, or fit for the voyage, the charterer is not justified in repudiating the charter altogether; but he must load the ship and recover damages for any injury which he can show he has suffered by reason of the ship’s unseaworthiness, unless such unseaworthiness will prevent the charterer from deriving any benefit whatever from the voyage proposed. Other additional provisions in the charter party, however, may have the effect of making the seaworthiness of the ship a condition precedent; thus, in a case where the charter stipulated that part of the freight should be paid in advance, *subject to insurance*, and as the insurance could not be legally and properly effected, unless the ship was seaworthy,

it was held that the seaworthiness of the ship was warranted, and was therefore a condition precedent, which must be complied with before the charterer was bound to carry out the charter.

In a charter which provided that the ship should proceed to Alexandria, "with all convenient speed (on being ready), having liberty to take an outward cargo for owners' benefit direct or on the way;" that was held not to create a condition precedent, the breach of which would justify the merchant in refusing to load the ship at Alexandria, but it only gave him a right of action against the ship-owner for damages; the Court being of opinion that it was not the intention of the parties that the merchant should be altogether exonerated if the ship made a slight deviation.

As the question of whether any stipulation is a warranty or not, depends on the intention of the parties, as shown in the charter party, each case must depend on the words which the parties make use of. If the words do not amount to a warranty, or if the *whole* object of the voyage is not lost, the stipulation is considered merely a collateral agreement, the breach of which by one party will not justify the other in refusing altogether to carry out his own part of the contract, but it will only give him a right to sue the other party for damages for his breach of the contract.

INTERPRETATION OF CHARTER PARTIES.

In construing the meaning of the terms adopted by the parties in the charter, the Courts endeavour to adopt an interpretation which is liberal and according to the true intention of the parties. The contract will not be construed so as to lead to absurd or unreasonable results, for the law will not presume that the parties intended to make an absurd or unreasonable contract; but if the words are clear and positive, they will be adhered to, however hard they may prove, for the parties should be more cautious before they enter into the contract.

A charter is construed so as to make it conformable to the custom of the trade to which it relates, unless such custom is at variance with the express terms of the contract. The parties are supposed to

intend their contract to be carried out in the usual and customary manner.

The *express* provisions of the charter cannot be altered or varied by verbal evidence, but verbal evidence is admissible to *explain* its meaning,—for instance, by explaining some usage of trade applicable to the subject.

The printed part of a charter party is of as great weight as the written part, although a different rule prevails in the case of insurance policies.

Both the validity of the contract and the interpretation of it depend on the law of the country where the contract is made, but the mode of enforcing it is governed by the law of the country where it is to be enforced.

If the voyage becomes illegal before it is commenced, the charter is considered to be rescinded ; for instance, if war is declared with the State to which the ship is about to sail, or if the exportation of the cargo is prohibited by our Government at home.

CUSTOMS AND TRADE USAGES.

All mercantile agreements are governed by the known and established usages of the trade in connection with which they are made. The parties entering into the contract are supposed tacitly to agree that it is to be performed according to the universal custom of the trade, unless they insert express provisions in it which are inconsistent with, or contrary to, the usage, and then, of course, the words of the contract will exclude the operation of the usage, evidence of which is only admissible to *explain* the supposed intention of the parties, and not to *contradict* what they have agreed to.

In giving judgment in one case, Lord Campbell said: "The parties are supposed to leave to implication and tacit understanding all those general and unvarying incidents which an uniform usage would annex, and according to which they must in reason be understood to contract, unless they expressly exclude them." Evidence of a usage, therefore, is only admissible when both parties may be reasonably supposed to be cognizant of the usage. Persons engaged in trade

are supposed to know all the general customs of the trade they engage in, but it is otherwise as to merely *local* customs. Usages of a particular port are not binding on a stranger not resident at that port, and who is ignorant of the usage, for the only reason on which a custom is allowed to form part of the contract is because both of the parties are supposed to know of the custom.

To be valid, a usage must be a legal one. A usage which is contrary to the law cannot be set up to control or alter the law.

TIME CHARTERS.

When a ship is chartered by the "month," *calendar* months are understood, and not *lunar* months. If no period be named when the time is to commence, it begins to run from the time the vessel commences her voyage, and the freight becomes due at the end of each month, whether the vessel ever reaches her destination or not.

When engaged on a time charter, the freight continues to accrue notwithstanding that the voyage may happen to be delayed, provided the delay is not caused by the neglect or default of the ship-owner; thus, as the owner is to keep the vessel in repair, if repairs are necessary, and during the voyage she is detained (uselessly to the charterer) to have the repairs done, freight must still be paid for the time she is detained for the repairs, unless it be otherwise provided by the charter.

When a ship is under time charter, the captain will be bound to accept any kind of cargo which is not injurious to the ship, and in any quantity within the carrying capacity of the ship, unless special provisions are inserted in the charter to restrict this right. The charter should, therefore, specify both the trade in which the ship is to be employed, and the kind of cargo she is to carry during the whole time of her employment. If the ship is insured by a policy containing any conditions as to the time of sailing on certain voyages, or restrictions as to the quantity of certain heavy cargoes to be put on board, the charter should be framed accordingly, or the insurance of the ship may be invalidated by the merchant requiring the ship to break those conditions.

ALTERATIONS MADE AFTER SIGNING.

No alteration must be made in the charter after it is signed, except with the consent of all the parties. In a recent case, after the charter had been signed, the broker had inserted material words in the margin, and although the shipowner was not aware that the broker had made the alteration, still it was held to vitiate the charter altogether. The Court, in giving judgment, said:—"It is, no doubt, apparently a hardship that where what was the original charter party is perfectly clear and indisputable, and where the alteration or addition was made without any fraudulent intention, and by a person not a party to the contract, a perfectly innocent man should thereby be deprived of a beneficial contract; but on the other hand, it must be borne in mind that, to permit any tampering with written documents would strike at the root of all property, and that it is of the most essential importance to the public interest that no alteration whatever should be made in written contracts, but that they should continue in exactly the same state and condition as when signed and executed, without addition, alteration, erasure, or obliteration."

If the charter is altered by one of the parties, or while it is in the possession of one of the parties, although that will prevent *him* from enforcing any rights under it (even according to the terms it originally contained before the alteration), it does not prevent the *other* party from taking advantage of the charter, he being in no way responsible for the mutilation of the document which was not in his custody.

When a charter party has been signed, the parties cannot *verbally* make any alteration in its terms so as to be binding. If it is wished to alter the terms such alteration should also be reduced to writing, and be signed and stamped the same as the original charter; or else the old charter should be cancelled, and a new one, containing the amended terms, substituted. A charter may, however, be *wholly rescinded* by a verbal agreement.

STAMP DUTY ON CHARTERS.

A stamp duty of 6*d.* is payable on all agreements for the charter of ships, and on any memorandum, letter, or other writing, between the master or owner of a ship, and any other person, for or relating to the freight or conveyance of any goods on board of such ship.

The stamp duty may be denoted either by a stamp impressed on the charter, by sending it to the Stamp Office in London, or by an adhesive stamp affixed to it.

If an adhesive stamp be used, the person who last signs the charter, or whose signature completes the same as a binding contract, must cancel the stamp by writing thereon his name or initials, or the name or initials of his firm, together with the true *date of his so signing* the same; if the date be omitted it will not be considered duly stamped, unless it be proved that the stamp was affixed at the proper time. Charters may be stamped at the Stamp Office, within seven days after the day of date, on payment of 4*s.* 6*d.* penalty, in addition to the duty of 6*d.* After seven days, and within one month after signing, they can be stamped on payment of the duty of 6*d.*, and a penalty of £10. After the expiration of a month, they cannot be stamped at all.

If an unstamped charter is first signed by a person out of the United Kingdom, any party to such charter may, within ten days after it is received in the United Kingdom, and *before* it is signed by any person in the United Kingdom, affix an adhesive 6*d.* stamp to it, which must then be cancelled by the party writing his name or initials and the true date of signing across the stamp as above.

All documents first executed out of the United Kingdom relating to any matter to be done in the United Kingdom requiring a stamp, may be stamped within the time specified dating from their arrival in the United Kingdom.

Letters altering a charter are liable to the same stamp duty as a charter.

BILLS OF LADING.

THE charter party is the evidence of the contract between the shipowner and the merchant, and the bill of lading is the evidence of the goods having been shipped under the contract. If there is no charter, then the bill of lading will be the evidence of the contract, as well as of the shipment of the goods.

The charterer is always liable to the shipowner for any breach of the agreement he has made by the charter, but the consignee of the cargo is ordinarily only liable to carry out the terms of the bill of lading, as he may be altogether ignorant of the contents of the charter party. If it is intended that the consignee of the cargo should be bound by any of the terms of the charter, an express reference to such charter or any terms thereof should be inserted in the bill of lading. It is important, therefore (especially if the merchant who has chartered the ship is resident abroad, and beyond the jurisdiction of the English courts), that the bill of lading should mention all charges for which it is intended that the consignee is to be liable, otherwise the captain or owner of the ship will not be able to enforce those charges against the consignee.

In the case of *Chappel v. Comfort*, the law was explained as follows:—"The provisions of the charter party are only binding as between the shipowner and the charterer, and if there is a bill of lading given by the master, which gets into the hands of an assignee for value, he is entitled to have the goods delivered to him upon his fulfilling the terms mentioned in the bill of lading, and he is not ordinarily bound to refer to the charter. Generally, a consignee taking goods under a bill of lading incurs no other liability than that of paying the freight. If it is desired that the assignee of the bill of lading should observe the terms of the charter other than those which relate to freight, it should be provided for in the bill of lading, as in the case of *Wegener v. Smith*, where the words of the bill of lading were 'to order against payment of the agreed freight, *and other conditions, as per charter party,*' and it was then held that the

consignee being bound to fulfil those other conditions, was liable for demurrage."

Every *endorsee* of a bill of lading, to whom the property in the goods passes by the endorsement, is, under the Bill of Lading Act, 1855,* liable to the shipowner, and the shipowner is liable to him in case of any breach of the contract, just the same as if the contract in the bill of lading had been made with the *endorsee* himself.

An *endorsee*, however, who endorses the bill of lading again to another party, does not remain liable after endorsing it away.

If the merchant endorses bills of lading, and parts with all property in the goods, he cannot afterwards stop the goods from coming into the hands of the consignee, unless the consignee is merely his agent, or has become bankrupt in the meantime.

If two bills of lading of the same goods have been improperly endorsed to different parties, the person who holds the bill of lading which was *first endorsed*, is entitled to the goods to the exclusion of the other; but the master is justified in delivering the goods to the

* BILL OF LADING ACT, 1855.—SEC. 1. Every consignee of goods named in a bill of lading, and every *endorsee* of a bill of lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.

SEC. 2. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or *endorsee* by reason or in consequence of his being such consignee or *endorsee*, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

SEC. 3. Every bill of lading in the hands of a consignee or *endorsee* for valuable consideration representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not been in fact laden on board: Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

first person who presents a properly endorsed bill of lading. If, however, there is any probability of a dispute, he should obtain an indemnity from the person to whom he delivers up the goods.

CONTENTS OF BILLS OF LADING.

Numerous forms of bills of lading are in use according to the trade engaged in ; one of the simplest is as follows :—

SHIPPED in good order and well conditioned by.....in and upon the good ship.....whereof.....is master for this present voyage, now lying at..... and bound for....., the following goods, viz. :..... being marked and numbered as in the margin, and to be delivered in the like good order and condition, at the port of....., the act of God, the King's enemies, fire, and all and every the dangers and accidents of the seas, rivers, and of navigation of what nature or kind soever excepted, unto.....or.....assigns, he or they paying freight for the same, and performing other conditions as per charter.

In witness whereof, the master of the said ship hath signed.....bills of lading, all of this tenor and date; one of which being accomplished, the others to be void. Dated the.....day of.....189....

..... Captain.

As the consignee is only liable to pay what is expressly stated in the bills of lading, the captain, before signing, should attend to the following matters :—

1st. The bills of lading should not state simply that the cargo is to be delivered “on payment of *freight* as per charter,” otherwise the consignee will be liable to pay freight only, and he will not be liable for any demurrage or other charges. To protect the shipowner, the captain should take care that the bills of lading say, “consignees paying freight, and performing *other conditions* as per charter party,” or other equivalent words.

2nd. The bills of lading should provide for the same rate of freight as is named in the charter party, otherwise the captain will only have a right to retain the cargo at the port of discharge until the amount of freight named in the bills of lading is paid ; and if there is any

deficiency, he will have to claim it against the original charterer. The captain cannot be compelled to sign the bills of lading for a lower rate than is named in the charter, unless it is so stipulated in the charter. If he does so without it being so agreed by the charter, the shipowner is not bound by it.

3rd. The master has no authority to sign bills of lading for any goods which have not been received on board, and if he does so the shipowner is not bound by it; although the master himself will be bound if the bills of lading are transferred to third parties who are ignorant of the error (unless the captain has been misled by the fraud of the shipper). The quantity, however, stated in the bill of lading is *prima facie* taken to be correct; if the shipowner disputes it he must prove that the bill of lading is erroneous. And if the bill of lading acknowledges the goods to have been shipped in good order and condition the shipowner cannot after delivery allege that they were shipped in a damaged condition, although such may have been the fact, and if they turn out to be damaged the shipowner will be liable for damage to the consignee. If, therefore, the captain is not satisfied as to the quantity or quality of the goods, he should *always* sign—

“Weight and quality unknown;”

“Quantity and quality unknown;”

“Weight and contents unknown;” or

“Number and contents unknown;”

as the case may be; for the captain is not bound to admit on the bill of lading the quantity or quality of the goods he has received.

4th. If the cargo consists of liquid goods he should add, “Not accountable for leakage; or if of brittle goods, “Not accountable for breakage,” or “Free of breakage, leakage, and damage.” But even if these words are inserted, the captain will only be protected against such leakage or breakage as may arise from accidental causes, and not from damage occurring from negligence or want of care. If it is wished to protect the shipowner from liability for negligence, a clear and express statement to that effect should be inserted in the bill of lading.

5th. If any goods have been sent on board by the merchant in-

securely packed, or if any of the goods are damaged before they are received on board, the captain should state on the bill of lading the number of packages which are damaged or insecurely packed.

The negligence clause adopted at the conference at Liverpool in 1882, by which the shipowner is relieved from liability for the neglect of his servant, runs as follows :—

The act of God, perils of the sea collisions, stranding, and other accidents of navigation, excepted, even when occasioned by the negligence, default, or error in judgment of the pilot, master, mariners, or other servants of the shipowners.

The United States Courts, however, refused to recognise the binding force of such a clause, by the decision given in the case of the *Montana*, 1880, holding that the law of the place where the contract is made governs its nature, obligation, &c., unless the parties intended to be bound by the law of some other country. Consequently, in business transactions with the United States it is advisable for shipowners to insert a clause to the effect that “the contract shall be governed by the law of the flag of the ship carrying the goods.”

SIGNING BILLS OF LADING.

The bills of lading should be signed as soon as possible after the shipment of the goods ; but on receiving the goods, the captain is to give a receipt for them if required to do so, until the bills of lading are made out, and if he does give a receipt for them, he should not sign the bills of lading for those goods until the receipt is returned to him. He should not sign the bills of lading before the goods are received on board, or he may make himself liable for the goods, and never receive them.

The captain ought not to sail without signing, or offering to sign, bills of lading. If there is any dispute about the form or contents of the bill of lading, or if the merchant refuses to allow the captain to insert any words which the captain considers ought to be inserted, he should sign them under protest, thus :—

“ Signed under protest,

“ J — W —, Captain.”

If the merchant refuses to allow him to sign in that way, he should consult a notary, or solicitor, who will, on his behalf, make a formal offer to sign the bills of lading under protest. And if necessary, prepare bills of lading in the captain's interest and deliver same to the merchant, after which the ship can proceed on her voyage.

If, after the lay days are expired, the merchant delays the captain in sailing, by preventing him from signing proper bills of lading, the merchant will be liable to pay demurrage for the detention; but if the captain refuses to sign the bills of lading *without* a sufficient cause, then the consequences will fall on the shipowner, and not on the merchant.

The captain is not bound to sign a bill of lading unless it is properly stamped.

Every bill of lading requires a sixpenny stamp (Stamp Act, 1870), and it must be stamped before it is signed; it cannot be stamped afterwards. Every person signing an unstamped bill of lading is liable to a penalty of £50. This provision of course only applies to documents signed in the United Kingdom. Three of the bills of lading should be stamped, but a copy requires no stamp.

After signing one set of bills of lading, the master cannot be compelled to sign another set unless the former ones are given back to him, or he might become liable to deliver the goods to the holders of both sets.

It is the duty of the shipper to make out the bills of lading according to the charter, and supply a copy to the captain, unless there is some special custom in the particular trade or port to the contrary.

LOADING.

THE charter party generally provides that the ship shall be tight, staunch, and strong, and furnished with all proper necessities, and a sufficient crew, but this is also required by the law, even if there is no charter party. If the ship is in a leaky state, and the cargo be damaged, or the merchant be otherwise injured thereby, the shipowner will be liable to pay damages.

When no time is mentioned within which the ship is to arrive at the place of loading, she must arrive there within a *reasonable* time, and the shipowner is bound to send her there without any unnecessary delay; and the ship must not make any intermediate voyage, or deviate from the direct course to the place of loading (except in case of necessity) without the consent of the charterer.

If any delay occur it will not justify the charterer in refusing to load the ship (unless the charter contains a warranty that she is to be at her place of loading before a certain specified day), but the shipowner will be liable to pay damages for any injury sustained by the merchant in consequence of the delay or deviation.

Should any accident occur, causing delay without the shipowner's fault, while the vessel is on her way to the port of loading, or even if repairs have to be done in consequence of some accident, the merchant still continues bound to load her as soon as she is ready, provided that the charter contains the usual clause exempting the shipowner from liability in respect of accidents.

If a ship be chartered to load at a certain number of ports, the charterer has no right to require the ship to go to any more ports than the number agreed for; if he does so he is bound to pay all extra expenses caused thereby.

The charterer is bound to load the vessel within such a time as would be considered a reasonable time under ordinary circumstances, after the vessel is ready to receive her cargo, unless some definite time for loading has been named in the charter party. The question of what is a reasonable time will depend on the custom of the port,

the nature of the cargo, and other circumstances. The ship will not be considered ready if she is in an unseaworthy state.

BALLAST.

As it is the duty of the shipowner to make the ship fit to undertake the voyage, he is bound to provide ballast when necessary, unless the charter contains any positive agreement to the contrary. In the case of *Irving v. Clegg*, the charter stipulated that the charterer had to furnish a full and complete cargo, and that 100 tons of rice or sugar should be shipped, previous to any other part of the loading, to ballast the vessel; the Court held that this did not compel the merchant to load *sufficient* rice or sugar to ballast the ship, but if any more ballast was necessary beyond the 100 tons, it was to be shipped by the shipowner.

As the duty of supplying ballast is thrown on the shipowner by the law, his liability to supply it cannot be controlled or avoided by any alleged custom to the contrary, for no mere custom can be set up to override the law.

If it is necessary to put ballast in the ship as well as cargo, the captain has the right to put in heavy merchandise instead of ballast, provided that it occupies no more space than ballast would have done, is not injurious to the cargo, and leaves to the charterer the full space of the vessel for the cargo.

DUNNAGE.

The shipowner is bound to supply the depth of dunnage which is customary at the port, for the cargo he is about to take on board (unless the charter says the dunnage is to be provided by the merchant), and the captain should be very particular that proper and firm dunnage is provided, for the shipowner will be liable for all damage which the cargo may sustain by the want of it.

The captain has the right, however, to use merchandise as dunnage, provided that it does not occupy more space than ordinary dunnage, and is equally effective.

STOWAGE OF THE CARGO.

It is the duty of the captain to stow the cargo so that no damage is done to any part of it, either by the motion or leakage of the ship, or otherwise. In the case of *Gillespie v. Thompson*, the cargo consisted of turpentine and flour, and both were properly stowed and dunnaged, but when the cargo was discharged, the flour was found to have been tainted by the turpentine. The shipowner had not been guilty of any negligence (except so far as it may be considered improper to put flour and turpentine in the same vessel), and care was taken to separate the goods from each other. The damage was not caused by turpentine having been in actual contact with the flour, but the fumes from it had tainted the flour, as is often the case. The plaintiff (the charterer) contended that it was improper stowage to put turpentine in the same vessel with flour, and Lord Campbell delivered judgment in his favour. He said, "The shipowner took the goods in good order, and undertook to deliver them in good order, perils of the sea excepted; they were delivered in bad order, resulting, we think, from improper stowage. There is no doubt the owner of the ship is liable."

The shipowner, however, is only bound to do the best he can; so that if the cargo be damaged accidentally he will not be liable. If the stevedore was appointed by the charterer, and not by the captain, the shipowner will not be liable for any damage, unless the stevedore acted under the control of the captain.

Sometimes, by special custom or agreement, the stowing of the cargo has to be done by the merchant, and sometimes the charter says the charterer's stevedore is to be employed by the ship, which has been held to mean that if the charterer appoints a stevedore, such stevedore must be employed, but if he does not appoint one, then the master is to get the ship properly loaded.

The captain is to supply sufficient ropes, &c., for taking the cargo on board, and the master and owners are responsible for any injury that may occur to the cargo in letting it down into the hold (unless it is stowed by the merchant's stevedore), for as soon as the cargo is

received by the master, and it comes under his control, he and his owners are responsible for its safety.

INSTRUCTIONS FOR THE STOWAGE OF MIXED CARGOES.

The following instructions to masters and mates of ships, for the stowage of mixed cargoes, have been approved and recommended by the Committee for managing the affairs at Lloyd's:—

1. Owners, commanders, and mates of ships are considered in law in the same situation as common carriers; it is therefore necessary that all due precautions be taken to receive and stow cargoes in good order and deliver the same in like good order. The law holds the shipowner liable for the safe custody of the goods when properly and legally received on board in good order, and for the "delivery" to parties producing the bill of lading. The captain's blank bill of lading should be receipted by the warehouse-keeper or person authorised to receive the contents. Goods are not unfrequently sent alongside in a damaged state, and letters of indemnity given to the captain by the shippers for signing in good order and condition; this is nothing more or less than conniving at fraud; fine goods are also often damaged in the ship's hold by lumpers, if permitted to use cotton hooks in handling bales. All goods must be received on board according to the custom of the port where the cargo is to be taken in, and the same custom will regulate the commencement of the responsibility of the master and owners.

2. Hemp, flax, wool, and cotton, should be dunnaged 9 inches on the floors and to the *upper part* of the *bilge*, the wing bales of the second tier kept 6 inches off the side at the lower corner, and 2½ inches at the sides. Sand or damp gravel ballast to be covered with boards. Pumps to be frequently sounded and attended to. *Sharp-bottomed ships one-third less dunnage in floor and bilges.* Avoid horn-shavings as dunnage from Calcutta.

3. All corn, wheat, rice, peas, beans, &c., when in bulk to be stowed on a good platform, or dunnage wood, of not less than 10 inches, and in the bilges 14 inches dunnage; the pumps and masts cased, to have strong bulkheads, good shifting boards, with feeders and ventilators, and to have no admixture of other goods. Flat-floored, wall-sided ships should be fitted with bilge pumps. On no consideration must the stanchions under the beams be removed.

4. Oil, wine, spirits, beer, molasses, tar, &c., to be stowed bung up, to have good *cross beds* at the quarters (*and not to trust to hanging beds*), to be well chocked with wood, and allowed to stow three heights of pipes or butts, four heights of puncheons, and six heights of hogsheads or half-puncheons. All moist goods and liquids, such as salted hides, bales of bacon, butter, lard, grease, castor oil, &c., should not be stowed too near "dry goods," whose nature is to absorb moisture. Shipowners have often to pay heavy damages for leakage in casks of molasses, arising from stowing too many heights without an intervening platform or 'twixt decks. From Bengal, goods are frequently damaged by castor oil.

63 Gallons make	...	...	...	1 Hogshead.
84 " "	...	...	...	1 Puncheon.
126 " or 2 hogsheads	...	...	...	1 Pipe or Butt.
252 " or 2 pipes	...	...	...	1 Tun.

5. Tea, and flour in barrels; flax, clover, and linseed, or rice, in tierces; coffee and cocoa, in bags; should always have 9 inches, at least, good dunnage in the bottom, and 14 to the upper part of the bilges, with 2½ inches at the sides; allowed to stow six heights of tierces, and eight heights of barrels. All ships above 600 tons should have 'twixt decks or platforms laid for these cargoes to ease the pressure—caulked 'twixt decks should have scuppers in the sides, and 2½ inches of dunnage laid athwartship, and not fore and aft-ways, when in bags or sacks; and when in boxes or casks not less than one inch. Rice from Calcutta is not unfrequently damaged by indigo, for want of care in stowing.

6. Entire cargoes of sugar, saltpetre, and guano, in bags, must have the dunnage carefully attended to, as laid down for other goods. Brown sugar to be kept separate from white sugar, and both kept from direct contact with saltpetre. Timber ships are better without 'twixt decks, if loading all timber or deals.

7. Pot and pearl ashes, tobacco, bark, indigo, madder, gum, &c., whether in casks, cases, or bales, to be dunnaged in the bottom, and to the upper part of the bilges, at least 9 inches, and 2½ inches at the sides.

8. Miscellaneous goods, such as boxes of cheese, kegs and tubs of lard, or other small or slightly-made packages, not intended for broken stowage, should be stowed by themselves, and dunnaged as other goods.

9. Barrels of provisions and casks of tallow allowed to stow six heights. All metals should be stowed under, and separated from goods liable to be damaged by contact.

10. All manufactured goods, also dry hides, bales of silk, or other valuable articles, should have $2\frac{1}{2}$ inches of dunnage against the side, to preserve a water-course. Bundles of sheet iron, rods, pigs of copper or iron, or any rough, hard substance, should not be allowed to come in contact with bales or bags, or any soft packages liable to be chafed. When mats can be procured, they should be used at the side for silk, tea, &c.

11. Tar, turpentine, rosin, &c., to have flat beds of wood under the quarters, of an inch thick, and allowed to stow six heights.

12. Very frequent and serious loss falls on merchants on the upper part of cargoes, particularly in vessels which bring wheat, corn, tobacco, oil-cake, &c., arising from vapour damage imbibed by wheat, flour, and other goods, stowed in the same vessel with turpentine, or other strong-scented articles; the shippers are to blame for such negligence, for not making due inquiry before shipping.

13. Ships laden with full cargoes of coal, bound around Cape Horn or Cape of Good Hope, to be provided with approved ventilators, as a preventive against spontaneous ignition.

14. No vessel bound on any over-sea voyage should, on any account, be loaded beyond that point of immersion which will present a clear side out of water, when upright, of three inches to every foot depth of hold, measured amidships, from the height of the deck at the side, to the water.

NOTE.—Shippers abroad, when they know that cargoes will be stowed properly, give a preference, and at higher rates, to such commanders of ships as will undertake to guarantee the dunnage. The American shipowners, in the stowage of mixed cargoes in large ships, from experience discovered what “pressure” barrels of flour, casks of provisions, &c., will bear, and so avoided reclamations for damage, if otherwise properly stowed; hence, in ships above 600 tons, with dimensions exceeding in length $4\frac{1}{2}$ times the beam, and 21 feet depth of hold, orlop decks will come into general use, so as to relieve the pressure, by dividing the ship’s hold, like a warehouse, into storeys. A large ship, called the *Liverpool*, which left New York in December, 1854, with an entire cargo of flour, was never afterwards heard of; it is supposed that the lower tiers of barrels gave way under the

pressure, and the cargo, having got loose, shifted in a gale of wind, and capsized the vessel.

Ships' cargoes, for insurance, will also become a matter of special agreement between merchant and shipowner, and merchant and underwriters, and the premiums vary according to the dunnage agreement. The stowage and dunnage must stand A1, and is often of more importance than the class of the vessel, as experience has proved.

When ships are chartered for a lump sum, the draught of water should be limited, as it not unfrequently happens that brokers insert a clause that coals are not to be considered as dead-weight, in order to fill the ship up in case of goods falling short to make up the chartered freight. All packages, bales, and cases not weighing more than 15 cwt. to the cubic ton measurement, are designated as light freight.

THE CARGO.

It is the duty of the merchant to supply the vessel with the same cargo which has been agreed on by the charter party, and he must supply it in the manner which is customary at the port, or the shipowner will be entitled to recover from him compensation for any damage he may sustain by the non-fulfilment of the charter. In one case where the merchant had agreed to supply a cargo of "tallow, deals, and battens," and the merchant loaded no tallow, but only deals and battens, which paid a less freight than tallow, the shipowner was held to be entitled to damages.

When the charter party stipulates for a cargo consisting of certain specified goods, "and other merchandise," the charterer cannot under the words "other merchandise" claim to load *any* kind of goods, but he is restricted to goods of the same nature as those specified, and paying an average freight with them. Thus, where the cargo had to be "gum, bees-wax, rice, bullion, and other lawful merchandise," the merchant loaded a quantity of lumber, which was the staple commodity of the port, but it was held that he was bound to pay an amount equal to what the full freight would have been if he had supplied the specified cargo.

If the merchant has unconditionally agreed to load a certain cargo, and it becomes impossible for him to do so, in consequence of some accident over which he has no control, still he is liable to pay damages to the shipowner for the non-fulfilment of his contract.

The agent of the charterer has not any implied authority as agent to arrange with the ship-master for substituting another voyage, or another cargo, in the place of the voyage or cargo named in a charter made by his principals. To empower him to do so, he should have an express authority to that effect from his principals. If the agent does alter the voyage or cargo without authority, his principal will not be bound by it.

The captain should not take on board more than the vessel is able to carry; and he should not take any contraband goods which may make the vessel liable to forfeiture or detention.

The charterer has no right to put any goods into the cabin, or to load the deck, unless that is specially agreed for, or unless a deck cargo is both lawful and customary. The expression "full cargo" in a charter does not include the cabin or the deck, but only the full range of the ship's hold, from bulkshead to bulkshead.

If freighted for a lump sum, and a deck-load is put on board when not provided for in the charter, extra freight will be payable for it; but deck-loads must not be taken during prohibited times; for instance, wood goods on deck to arrive in the United Kingdom between the last day of October and the 16th day of April; or during the times (if any) when they are prohibited by the conditions of the policy by which the ship is insured. The space occupied by deck cargo is liable to pay dues as ordinary stowage space of the ship.

If the merchant puts goods into the cabin, the shipowner will not be bound to accept freight for those goods at the same rate as is mentioned in the charter party; but he will be entitled to the freight at the current rate, or at such other rate as a jury may consider the extra accommodation to be worth.

While the cargo is being loaded, if the ship is in a bar harbour, the captain should see that she is not loaded so deep that she cannot go over the bar. He is not bound to receive any more cargo in port

than he can safely leave the port with, at a good tide ; and, if necessary, the merchant is bound to load the remainder of the cargo in the roads ; but if the captain consents to receive the cargo in port, and then tries to leave, but fails to do so for want of water, the cost of discharging a portion of the cargo, and reloading it from lighters outside the harbour, will fall on the ship, as the merchant is not bound to load the vessel twice.

If the merchant refuses to load a part of the cargo in the roads, when bound to do so, the captain should note a protest when the lay days are expired, and, if necessary, sail home with such cargo as he can safely leave the port with ; and the merchant will be liable to pay dead freight for the remainder of the ship's capacity.

The captain, however, would not be justified in insisting on sailing to prevent his being neaped, but he would have to receive in the harbour as much cargo as he could leave the port with at a spring tide, unless an arrangement is made with the merchant to load a part of the cargo outside the harbour to save the tides.

If the merchant has agreed by the charter to supply a full cargo, he is bound to furnish whatever broken stowage is required to complete a full cargo, unless there is some customary mode of stowage at the port of loading which exempts the merchant from this liability. The shipowner is bound to accept broken stowage to fill up.

If the charter provides for a full cargo, and describes the vessel a little below her actual burthen, still the merchant is bound to supply her with a full cargo, provided the shipowner has not made any wilful misrepresentation of the size of the ship, and the merchant has had the opportunity of seeing the ship to judge for himself. Thus : a ship was described to be of the burthen of 260 tons, but actually she could carry 400 tons. The merchant was held to be bound to supply as many goods as the vessel could carry with safety.

During the loading of the ship an accurate written account should be kept of the quantity of goods put on board—and, in discharging, of the quantity discharged—for use in case there is any dispute with the merchant. In the case of cargoes of grain, or other goods, which are liable to vary in their weight during the voyage, it is especially desirable that the captain should have a correct account (which he

or the mate is able to swear to) of the quantity of goods put on board; for the freight will only be payable on the quantity as ascertained at the port of loading, and not on the quantity delivered, if the cargo has increased in bulk during the voyage.

DAMAGED OR DANGEROUS GOODS.

The shipowner is not liable in respect of damage to cargo, unless it be proved to have been caused by "any actual fault" on his part. If, when presented for shipment, the captain suspects that the contents of any packages are damaged, he can demand to see the contents; but he is not justified in opening a package, except in the presence of the shipper or his agents.

If the merchant does not load the vessel with the same cargo provided by the charter, or if he load goods which are in a dangerous condition, or in a state which may be prejudicial to the owner's interest, the captain should refuse at the *earliest* opportunity to take such goods. If the merchant persists in loading goods not agreed for by the charter party, the captain should note a protest; or, if during the loading the merchant does anything which he is not justified by the charter in doing, and which may be injurious to the shipowner, the captain should at once send him a written notice, objecting to the irregularity, and stating that unless it is rectified the shipowner will claim damages.

If any goods are sent on board which are insecurely packed, the captain should either refuse to receive them, or state on the bill of lading the number and particulars of packages which are improperly packed.

If the goods are of a dangerous or destructive character, the shipper is bound to inform the captain or owner of their nature, and obtain his leave to send them on board. If he puts them on board without informing the captain or owner of their nature, he will be liable for any damage which they may do. By sections 446 to 450 of the Merchant Shipping Act, 1894, no person is entitled to require the master of any ship to carry any aquafortis, oil of vitriol, naphtha,

benzine, lucifer matches, petroleum, nitro-glycerine, gunpowder, and other explosives, or other goods of a dangerous nature ; and if any person sends by any ship any such goods without distinctly marking their nature outside the package containing them, and giving notice in writing to the master or owner of the contents of the package, and the name and address of the carriers or senders thereof, before sending it to be shipped, he incurs a penalty of £100, unless he shows that he was merely an agent, and did not know that such goods were of a dangerous nature, when the penalty is £10. A person shipping any such dangerous goods under a false description incurs a penalty of £500, and the goods will be forfeited.

The master or owner may refuse to take on board any parcels which he suspects to be of a dangerous nature, and he may require the shipper to open them to ascertain the fact. The captain has power to have a suspected parcel opened, to ascertain whether it contains any dangerous articles, but if he does so, he should request the shipper or his agent, if possible, to be present at the time, and if they are found to be dangerous they may be thrown overboard without any liability to the master or owner for so doing.

RE-LANDING THE CARGO.

After the merchant has shipped goods, he has no right to require them to be unshipped until they arrive at their destination, unless he first pays the full freight on the goods and the cost of re-landing them, and also returns to the captain all bills of lading he may have signed for such goods, or, at his own expense, gives the captain a proper indemnity (which should be drawn out by the captain's solicitor) against all liabilities on such bills of lading. If this is not done, it is the captain's duty to retain the goods for the benefit of his owner, and to secure the freight which will be due upon them.

The merchant has no right, after the bills of lading have been signed, to change the destination of the goods without the captain's consent ; but of course he can indorse the bills of lading, and make them deliverable to some other person ; or, if the ship, after commencing her voyage, puts back in consequence of meeting with an

accident, by which the goods are damaged so much that they cannot be profitably carried to their destination, then the owner of the goods has a right to have them delivered back to him on his paying all charges due on them.

BREACH OF AGREEMENT TO LOAD.

As a general rule, if either the merchant or the shipowner has contracted to do anything which it afterwards becomes impossible for him to do, the party in default is liable to pay damages to the other, unless the failure to carry out the contract is caused by some subsequent circumstance which would make it illegal for him to comply with the terms of the contract (for instance, if war is declared with the country to which the vessel was chartered, then the merchant would be absolved from his contract, as it would be illegal for him to trade with an enemy).

If the merchant is not ready at the appointed time to load the vessel, the other party may, at the expiration of the time within which the charterer has undertaken to load the cargo, abandon the charter and seek another cargo, and then the shipowner will be entitled to recover from the merchant damages for the breach of the charter. If there is fear of the ship being frozen up by too long a delay, or if the merchant is insolvent, or may reasonably be suspected of being so, and he has loaded part of the cargo, but neglects or refuses to load the remainder, the captain should not wait an unreasonable time beyond the time stipulated for by the charter party, as he will not have any *lien* on the cargo for the demurrage, unless that is expressly stated both in the charter party and bills of lading, but he will only have a personal claim for it against the merchant. If he does not wait on demurrage he should note a protest, or give a formal notice to the merchant, demanding the remainder of the cargo, and after that he can either himself complete the loading of the ship with other goods; or, if they cannot be obtained, he can sail to the port of delivery with such cargo as he has already got, if that appears to him to be the most judicious course to adopt.

If the merchant neglects to load the ship, he cannot be considered to have broken the contract until the end of the lay days, and demurrage days, if such are stipulated for in the charter, unless before that time arrives he positively refuses to carry out his contract; and if such refusal is *acted on* by the shipowner or captain, then the breach of contract by the merchant is rendered complete, and the captain will be at liberty to re-charter the ship and hold the first charterer liable for all consequences. But if the captain, instead of accepting the refusal, continues to demand the cargo after the merchant has refused to supply it, he cannot still consider the charter as broken, but he must then wait till the end of the time stipulated in the charter before he is entitled to re-charter the ship.

If the merchant refuses to load the ship, the captain should get the merchant to state his refusal in writing, or, if this cannot be done, he should note a protest.

From what has been said, therefore, it will be seen to be very desirable that the master should have a very clear knowledge of the contents of the charter party under which he is acting, and of his powers and duty with regard thereto.

DAMAGES PAYABLE FOR BREACH OF CHARTER.

If the charterer does not load the ship according to the charter, the amount of damages which the shipowner is entitled to recover is the amount of freight which the ship would have earned if she had been loaded according to the charter, deducting the expense the shipowner would have had to incur in earning the freight, and also deducting the nett profit he has made, if any, by the employment of the ship in the meantime; and the owner is not justified in keeping his ship idle after breach of contract, but he must accept employment if he can obtain such with safety and profit.

The amount of damages the merchant is entitled by law to recover from the shipowner, in case the latter improperly refuses to carry a cargo which he is bound by the charter party to take, will be the amount of the loss actually sustained by him, and thus the amount

will depend upon whether the merchant could obtain another ship to carry the cargo or not. If he could not obtain another ship, the damages will be the amount he has lost by having the cargo left on his hands. If he could obtain another ship, then the shipowner will only be liable for the extra freight, if an increased amount of freight has been paid: but if the new freight is not more than that named in the original charter, then, as the merchant would sustain no loss he can recover no damages (or merely nominal damages) unless the merchant show special damage, as, for instance, that arising directly from the breach of a time contract owing to the default of the shipowner, or any other clear and undoubted damage. If the charter contains a provision that a certain sum is to be paid as the ascertained damages (or "liquidated damages") in case the charter is broken, then the amount so named will be the amount payable. If, however, the amount stated to be payable on non-performance is expressed to be a *penalty*, or is in its amount of a nature evidently intended to operate as a penalty, then the merchant can only recover such amount of damage as he can prove he has sustained.

THE VOYAGE.

If the charter does not fix any time for the commencement of the voyage, it must be commenced with despatch, and within a *reasonable* time, wind and weather permitting, the captain first obtaining the necessary Custom House clearances for the vessel. If, however, the weather is stormy, it is the duty of the master to wait till the storm abates.

In the case of the "Wilhelm," the master had omitted, during the loading of the ship, to take in sufficient stores and provisions for the voyage; and after the cargo was loaded, while he was engaged in taking on board his provisions, frost set in, which prevented the sailing of the ship for several months, and the shipowner was held liable for all damage caused to the charterer by the delay.

As the ship's register is necessary for the navigation of the ship, the master and owners have an indefeasible right to the possession of it, and the right can only be lost by making a transfer of the ship itself. The owner, and his captain for the time being, can always compel any person who may happen to hold the register to deliver it up, even if it has been pledged with such person as a security for money lent by him; the register itself, therefore, cannot be made a security for money.

DEVIATION.

After commencing the voyage the ship must proceed by the usual and most direct course to her port of discharge without any unnecessary deviation; but notwithstanding any delay in sailing, or deviation during the voyage, the shipowner is still entitled to payment of full freight, without any deduction for delay, and if the merchant has suffered by the delay or deviation, he can recover compensation for the damages he has sustained by bringing an action against the shipowner.

A deviation from the direct course of the voyage can only be justified in case it is necessary for the purpose of doing some necessary repairs to the ship, or to obtain provisions, or for some other lawful cause, such as is justified by the universal usage in the voyage the ship is engaged in, or to assist a vessel in distress, or in pursuance of the express requirements of the charter. But even if the deviation is justifiable, it should be for as short a time and distance as possible.

If the vessel deviates improperly, the underwriters may be relieved from their liability in case of a loss if the ship is insured for the voyage only; and if any goods on board the vessel are captured, lost, or damaged during a deviation, the shipowner will have to make good the loss to the merchant, even if the loss was not caused by the deviation, and the shipowner cannot relieve himself from liability by proving that the same thing would have happened even if he had made no deviation. In the same way, if there is any fall in the market price of the goods composing the cargo, the shipowner will be liable to make good the loss of price sustained by the merchant in consequence of the delay or deviation of the ship.

If the deviation or delay has been so long and unreasonable that it has put an end to the whole object the freighter had in view in chartering the ship, the whole contract may be considered at an end.

If a deviation is made in going to the port of loading, it does not give the merchant the right to refuse to carry out the charter (unless the delay has been so long as to deprive the merchant of all reasonable benefit of the contract); it only gives him a right to bring a cross action or counter claim for damages.

PILOTAGE.

It is the duty of the captain to employ a pilot at any port where pilotage is usual or compulsory (unless the vessel is exempt from compulsory pilotage), otherwise disputes may arise with the underwriters and owners of the cargo if any damage should occur.

Under the Merchant Shipping Act, 1894, sec. 604, pilotage is compulsory on all vessels, British and foreign, carrying passengers

between any two places situated in the British Islands, unless the master or mate of the vessel holds a pilotage certificate applicable for the district within which the vessel is being navigated.

The Merchant Shipping Act, 1894, s. 625, contains the following exemptions from compulsory pilotage in the London district, and the Trinity House outport districts, unless the vessels are carrying passengers :—

1. Ships employed in the coasting trade of the United Kingdom (*i.e.* vessels habitually engaged in the coasting trade).
2. Ships of not more than 60 tons burthen.
3. Ships trading to the port of Brest, or to any port in Europe North and East of Brest, or to the Channel Islands, or Isle of Man, or *vice versa*.*
4. Ships navigating within the limits of the port to which they belong.

Under the Merchant Shipping Act, 1894, s. 605, all ships passing through the limits of a pilotage district, on a voyage between two places both situated out of such district, are exempt from compulsory pilotage, provided that they do not load or discharge at any place within that district, or on some river in such district.

The London pilotage district extends from London Bridge to Orfordness on the North, and Dungeness on the South, and up the Medway as far as Rochester Bridge. The English Channel district extends from Dungeness to the Isle of Wight. The Trinity House outport districts comprise all other pilotage districts, excepting those before named, and those districts for which provision has been made by special Act of Parliament or Charter.

The pilotage authorities for the London district, the English Channel district, and the Trinity House outport districts, are the Sub-Commissioners who are appointed for each district by the Trinity House. The other districts are regulated by their own Acts of Parliament or Charters.

* This exemption includes vessels on both inward and outward voyages, and it is not restricted to vessels habitually trading to those ports. A ship making a single voyage to those ports will be exempt.

Pilotage is compulsory in the London district and the Trinity House outpost districts, if a pilot can be obtained, unless the ship comes within the foregoing exemptions. In the English Channel district it is not compulsory.

Independent pilotage districts, established under local Acts of Parliament, exist at Liverpool, the Humber, Middlesbrough, the Tyne, Sunderland, Hartlepool, Boston, King's Lynn, Berwick, Barry, Cardiff, Newport, Bristol, Gloucester, Llanelli, Swansea, Lancaster, Chester, and other smaller ports in the British Islands.

Pilotage is not compulsory at the Tyne, Sunderland, Hartlepool, Middlesbrough, Swansea, Barry, Cardiff, Newport, and Gloucester; and in Scotland and Ireland, at Leith, Grangemouth, Burntisland, Dundee, Aberdeen, Inverness, Greenock, Cork, the Shannon, and Newry; but at most of the other ports above named it is compulsory on all vessels not exempted by their local Acts of Parliament.

A British pilot, if requested by the captain employing him, is bound to produce a copy of so much of the Merchant Shipping Act as relates to pilots, or a copy of the special local act under which he is licensed; and also a copy of the rates, bye-laws, and regulations in force in his own district. Any dispute with him is to be settled by the pilotage authorities.

When pilotage is compulsory, the shipowner or master is not answerable for any damage occasioned by the fault or incapacity of any qualified pilot in charge of the ship within such pilotage district, and such pilot is not liable beyond the penalty of the bond executed on his appointment.

A vessel is only under the direction of the pilot for all the purposes of navigation. It is his duty to direct the *course* she is to pursue, and the speed she is to go. The management, however, of the ship herself is still under the control of the master, and he must promptly carry out all the pilot's orders; and if the ship is being towed by a tug, such tug also must obey the pilot's orders.

If the pilot moors the ship in an improper berth, and after he has ceased to have charge of her, she is allowed to remain there, the shipowner is liable for any damage she may do.

The master must not interfere with the pilot, unless he is utterly

incompetent from illness, intoxication, &c.; but, of course, the captain may make suggestions to the pilot, or consult with him, but not in any way to override the authority of the pilot, or so as to make himself responsible for the course or direction of the ship.

ACCIDENTS.

If an accident occurs, and it is necessary to discharge the cargo before the end of the voyage, the master has a right to detain it a reasonable time until the ship is repaired; but if it is found that it is impossible to repair the ship, so as to enable her to complete the voyage, or if she is not worth repairing, the master has the right to tranship the cargo and send it on by another vessel; but it has been decided that he is not compelled to send the cargo on. If the captain tranships at a higher rate of freight than is named in his own charter, his owner will have to pay the difference of freight himself, as he cannot charge the higher rate against the merchant. Therefore, the captain should not tranship unless he can send the cargo on for the same or a smaller freight than that named in his own charter. If the merchant *accepts* the cargo at a port short of its destination, he will be liable to pay the freight *pro rata*, according to the distance the cargo has been carried; but if he does not accept the cargo, he cannot be compelled to pay the freight until it is carried to its destination. He should communicate with the merchant at once, if possible, and obtain his instructions. If this cannot be done, and the cargo cannot be transhipped, the captain should either send it back to the port of loading or leave it safely deposited at the place where it happens to be; or in case of *urgent* necessity he can sell it, but this should never be done unless there is an absolute necessity to adopt that course, and until the captain has taken the best independent advice he can get on the subject.

The cost of unshipping and reshipping the cargo will generally fall on the insurers of the freight, if the freight is fully insured, but the cost of wages and provisions during the detention are not chargeable to them. If the cargo is transhipped, and the goods are then sent on solely for the purpose of earning freight, the extra cost of

transhipment beyond the amount of the original freight will fall on the underwriters of the freight.

Lord Tenterden says : " The disposal of the cargo by the master is a matter that requires the utmost caution. He should always bear in mind that it is his duty to convey it to the place of destination, and this purpose he is bound to accomplish by every reasonable and practical method. It is obvious that this purpose cannot possibly be effected by a sale of the whole of the cargo. What then is the master to do if by any disaster he is unable to carry the goods to their destination ? To this, as a general question, no answer can be given. Every case must depend on its own peculiar circumstances ; the conduct proper to be adopted with respect to perishable goods will be improper with respect to a cargo not perishable—one thing may be fit to be done with fish or fruit, and another with timber or iron. One method may be proper in distant regions, another in the vicinity of the merchant ; one in a frequented navigation, another in unfrequented shores."

What then is the master to do ? In general it may be said that he is to do that which a wise and prudent man will think most conducive to the benefit of all concerned. In doing so he may expect to be safe, because the merchant will not have any just reason to be dissatisfied. Some regard may be allowed to the interest of the ship, and of its owners, but the interest of the cargo must not be sacrificed to it. Transhipment for the place of destination, if it be practicable, is the first object ; if that be impracticable, return, or a safe deposit, may be expedient. The merchant should be consulted if possible. A sale is the last thing a master should think of, because it can only be justified by that absolute necessity which supersedes all human laws.

If it is *absolutely necessary* for the captain to have money, for instance, to do repairs necessary for the prosecution of the voyage, and for the benefit of the entire venture, and if the captain cannot obtain it on the credit of the owner, he may either obtain it on bottomry or respondentia of the ship and cargo, or he may pledge the whole or sell a *part* of the cargo, in order that the remainder may arrive, but he has no right under these circumstances to sell the *whole* or an unreasonable proportion of the cargo, because then no

benefit would result to the owner of the cargo, the object of the venture being that at least a considerable portion of the cargo should arrive at its destination. If any part of the cargo is sold by the captain to raise money for the ship's necessities, then on the arrival of the vessel at her destination, the shipowner will have to pay the merchant the price which the goods sold would have brought at their destination, and then the owner receives freight on the *whole* cargo ; but if the merchant prefers it, he has the right to claim the price the goods were actually sold for, and in that case the shipowner is only paid freight on the quantity of cargo actually brought to the port of delivery. In either case the merchant has the right to deduct from the freight the amount due to him for the portion of the cargo which has been sold. If the ship never arrives at her destination, then the merchant has no choice but to accept the amount the goods actually sold for.

In the absence of the owner, or in the absence of means of communicating with the owner, the captain has the power to pledge the owner's personal credit for all things that are *necessary* to conduct the navigation to a successful termination. He may, therefore, borrow money to pay for services which will have to be obtained and paid for in cash, but he has no right to pledge the owner's credit by borrowing money to pay for services which have already been rendered, unless a very strong case of necessity exists. If the captain borrows money to pay for anything which is not necessary, then the owner will not be liable to pay the amount. (See title Bottomry).

If any damage occurs during the voyage, or if it become necessary to put into a harbour for repairs in consequence of any accident, the captain should note a protest if possible within forty-eight hours after he is first able to leave the vessel, but he must not neglect his duty to the ship in times when his services are required at the ship. The protest need not be at once extended, as that can be done at any time subsequently. He should also get the damage to both ship and cargo surveyed by competent persons, and should send full particulars of the damage to his owners, that they may inform the underwriters and the merchants if necessary.

If the ship's bottom is injured by being struck by a sea which

strains her, and causes her to make water, the underwriters will be liable : but if she is injured by being struck by a succession of seas, that will be considered mere wear and tear, and will fall on the shipowner, and not on the underwriters.

If there is likely to be any delay, and the surveyors are of opinion that the cargo will spoil by keeping, and they accordingly advise a sale of it, then the captain should advertise a sale by public auction ; and when he proceeds on the voyage after his repairs are completed, he should obtain other goods if possible in the place of those he has sold, so as to earn freight.

If any repairs are necessary during the voyage, the captain need not go to any *extraordinary* expense (especially if the ship is at a place where repairs are very expensive) in having the repairs done in an absolutely perfect manner, for that can generally be done better and more cheaply at the end of the voyage. But he must make the ship seaworthy, or the shipowner will be liable to the owners of the cargo for any damage they may sustain in consequence of the ship's unseaworthiness. If the ship becomes unseaworthy after the commencement of the voyage, it is the duty of the shipowner as towards the charterer to repair her if he has the opportunity, or at least not to proceed with the voyage in an unseaworthy state. The captain should have the vessel surveyed by two or more practical men, and obtain a written report from them stating in detail the repairs which have to be done, and (if such is the fact) that after such repairs she is in a fit state to complete the voyage.

The captain should not allow his own judgment to be superseded by any person whose interest it is to advise expensive repairs, and he should not do anything which is not absolutely necessary. It is the duty of the captain to act on his own judgment in ordering repairs, assisted by the advice of such independent practical men of experience and respectability as he may himself consider best able to advise him. Lloyd's surveyors have not any official authority, and he is not bound to follow their directions. If they should recommend repairs which he and the surveyors whom he consults consider unnecessary, it is his duty to act on his own judgment, and do what he considers best for all concerned.

The shipwright who does the repairs will have a *lien* on the ship for the amount of the bill, unless, before he is employed, an agreement is made with him as to how he is to be paid.

The shipowner's liability for repairs rests entirely upon contract, and it must be shown that the captain had express or implied authority to order the repairs.

In ordering the repairs, the captain should not order anything which is not really necessary, merely because he expects the cargo will have to bear its proportion in a general average contribution, for it may turn out that the cargo is not liable to contribute.

If the repairs are only temporary, a statement should be made in the surveys and protests to the effect that the damage is to be finally surveyed and repaired when the vessel arrives home.

If the cargo has to be landed for the purpose of doing repairs to the ship, it is the duty of the captain to land it in his own name, on behalf of the shipowner, and keep it till the repairs are finished, and not to return it to the merchant or his agent. The merchant cannot require the cargo to be delivered back after shipment, and if the captain delivers it back, after the ship has met with an accident, he may be unable to borrow money on bottomry to pay for the repairs (as he could then only offer a security on the ship, instead of on the ship, freight, and cargo); or if money cannot be borrowed on bottomry, he has power to sell *part* of the cargo to pay for the repairs—an additional reason for not returning it to the merchant. Besides, if the cargo is returned, he may not be able to obtain another cargo in its stead. In one case, a vessel bringing a cargo from Calcutta, sprang a leak shortly after sailing, and had to return to Calcutta for repairs. The cargo was discharged, and delivered back to the shippers, and, after the repairs were completed, the captain was unable to raise money on bottomry of the ship to pay for the repairs, and he was compelled to sell the ship itself.

If repairs are done, the captain is bound to have them executed without any unnecessary delay.

If the cargo will not spoil by keeping, the captain should not tranship, if his own vessel can be repaired within a reasonable time; and he should not sell it, unless compelled to do so by the absolute

necessity of raising money which he cannot obtain in any other way, but even then pledging the goods will generally answer the same purpose, instead of selling them. If, however, the cargo is a perishable one, and would be completely spoiled by keeping, the captain should either tranship it, and send it on to its destination, or sell it where it is for the benefit of the merchant. If it would merely deteriorate, and not spoil completely, the captain should not sell it, but deposit the goods in safe custody in his own name until the merchant orders what is to be done with them. No freight will be payable on any part of the cargo which may be sold by the master.

If in consequence of some accident during the voyage it should become impossible to repair the ship, so as to take the cargo to its destination, and the completion of the voyage has thus become absolutely hopeless, or if the cost of the necessary repairs would exceed the value of the ship after she is repaired, the master should hold a survey, and then, *if the surveyors recommend that course*, he has power to sell the wreck for what it will bring for the benefit of all concerned. But in selling, the captain must act perfectly *bona fide*, and before selling he must try by every means in his power to complete the voyage, either—first, by borrowing the money on his owner's credit; second, by bottomry; or third, by selling a *part* of the cargo. If the master, in a case of extreme necessity, sells the ship, the person who purchases her is bound to see that the master is justified in selling, as he may afterwards have to prove that he *was* justified in doing it.

CONSTRUCTIVE TOTAL LOSS.

If the ship is so much damaged that she is not worth repairing, it is a "constructive total loss." If the owner wishes to claim for a constructive total loss, he must give notice of abandonment to the underwriters as soon as he has received certain intelligence of the casualty which renders it improbable that the ship will ultimately be recovered. If the information received by the owner is *doubtful*, he may wait a reasonable time to enable him, if possible, to obtain more certain information.

If the shipowner abandons to the underwriters, still it is the duty of the master to continue his exertions to save as much as possible, and do the best for all concerned, the same as if no abandonment is made. Anything which he does after the ship is abandoned to the underwriters is considered to be done as agent for them for their benefit.

In writing home to his owners, after any accident, the captain should give full particulars of the damage done, and the chances of getting it repaired, so that they may be able to decide whether they will give notice of abandonment or not. The letters sent home by the captain will have to be produced to the underwriters, to inform them of the position of the ship, and to enable them to decide what course they should take.

See also title "*Marine Insurance*," *post*.

BOTTOMRY AND RESPONDENTIA.

A bottomry bond is a kind of mortgage, the ship's bottom being pledged as security, the repayment of the sum borrowed being dependent upon the ship arriving safely at her destination. Bottomry is a loan upon the ship, and respondentia is a loan upon the cargo, although bottomry is sometimes a loan upon the ship, freight, and cargo (see Appendix of Forms). The lender is not entitled to the benefit of salvage, nor does he contribute in case of general average.

In proper cases of necessity, when money is required to enable the ship to complete her voyage, the master has power to borrow money under a bottomry bond, on security of the ship, freight, and cargo. If the money is borrowed as a bottomry loan, the money is only repayable to the lender in case the ship ultimately arrives at her destination. To make himself safe, therefore, the lender should insure. But if the ship deviates from her course during the voyage, then the shipowner is liable to pay the money secured by the bond, even if the ship is lost.

To make the transaction a bottomry loan, it is not necessary that the bond should expressly state that the money is only to be payable if the voyage terminates successfully; it is sufficient if that appears

to be intended. If the instrument expressly states that the money is to be repaid in any event, whether the ship completes her voyage or not, the security will not be considered a bottomry, and the lender will not be entitled to that prior claim on the ship which a regular bottomry bond would have given him.

The master should not give a bottomry bond except in case of absolute necessity; and before borrowing on bottomry, he should endeavour to obtain the money by pledging his owner's personal credit; and it is his duty, also, to endeavour to communicate with his owner, if that can be done.

The person lending money on bottomry is bound to satisfy himself that the money cannot be obtained on the personal credit of the owner, and also that the captain had endeavoured to communicate with the owner, and if it should turn out that proper efforts have not been made by the captain to communicate with the owner by telegraph or otherwise, the lender will not be able to enforce his bond.

If goods have been already supplied on credit, or if repairs have already been done, a valid bottomry bond cannot be given for the cost, after the supply of the goods, or the doing of the repairs, if the ship is then in the possession of the captain, unless the parties had expressly agreed before the goods were supplied, or before the repairs were done, that a bottomry security should be given for the cost.

The holder of a bottomry bond has a first security on the ship, and his claim comes before the mortgagee and all other creditors, excepting the seamen's claim for wages earned after the bottomry, and subsequent salvage services. A later bottomry bond has priority over an earlier one, as the money lent on the second bond assists the vessel to complete her voyage, and thus prevents the holder of the first bond from losing his claim.

At the end of the voyage the holder of a bottomry bond is bound to endeavour first to obtain his money from the ship, and, if that is insufficient (but not otherwise), he can then look for payment to the cargo, if that has been secured to him by the bond.

The holder of the bond should enforce it within a reasonable time after it becomes due, or he may lose his right to priority over other creditors.

SALVAGE.

Sir John Nicholl defined the ingredients of a salvage service to be—

1st. Enterprise in the salvors in going out in tempestuous weather to assist a vessel in distress, risking their own lives in order to save their fellow-creatures, and to rescue the property of their fellow-subjects.

2nd. The danger and distress from which the property is rescued is to be considered ; whether it was in imminent peril, and almost certain to be lost, if not at the time rescued and preserved.

3rd. The degree of labour and skill which the salvors incur and display, and the time occupied, are to be taken into account.

Lastly. The value of the property saved.

Where all these circumstances concur, a large and liberal reward is given ; but where there are none, or scarcely any, of those circumstances, the service can hardly be deemed a salvage service, and remuneration for ordinary work and labour only will be due to the parties.

No salvage remuneration is payable unless the services have been successful in saving the property.

The salvors must not misconduct themselves by exposing the property to unnecessary risk, or they will forfeit their claim.

A salvor must be a volunteer, who is not under any obligation to perform the service ; and for this reason, the crew of the ship saved cannot claim to be paid as salvors, for it is their duty to do all in their power to save her, so long as their contract for service in the ship lasts. For the same reason, a passenger cannot be a salvor unless the services are very extraordinary and meritorious.

The salvage service must be performed personally, and not by an agent ; but the owner of a salving ship is entitled to a share of the salvage reward if his vessel has been in any risk.

If one set of salvors are engaged with a vessel, and they are competent to save her, they have the right to reject the services of a second set of salvors. But if the first set are unable by themselves to save the ship, they must not refuse further assistance, or they may

thereby forfeit their claim to salvage. In case of a derelict ship, however, if one set are in possession, then, as no further services are needed, a second set have no right to interfere.

The salvors may be dismissed by the master or owner of the ship when their services are no longer considered necessary (unless the ship was derelict), but they are entitled to be paid for the services rendered by them before dismissal, and also for such services as it is found they could have further rendered if they had not been so dismissed.

By the Merchant Shipping Act, 1894, ss. 510 and 544—546, it is enacted that a reasonable amount of salvage shall be paid to salvors, together with all expenses properly incurred by them. If the services are performed by steamers, they are always liberally rewarded, as their services are generally very valuable.

In assessing the amount of salvage payable, the total value of the ship, freight, and cargo, is to be reckoned as the amount of the property saved, and the compensation payable is divided between the owners of those three items, according to the value of their several interests.

It may be stated generally, that where a boat or vessel is found at sea, deserted and abandoned by the master and crew, without the hope or intention of returning and recovering possession, she is in the sense of the law derelict; and goods abandoned in the same way, whether found floating or cast ashore, are derelict. But where the master or crew abandon vessel, boat, or goods *temporarily*, with an intent or hope to return, they are not considered legal derelicts.

In case of derelict, the amount awarded generally varies from about one-third to one-half the value of the property saved; in other cases it varies according to circumstances, but never more than one-half the value is allowed.

If a special and distinct agreement has been made as to the amount which is to be payable for the services then that amount only can be claimed, and not salvage, provided the agreement was a fair one (see Appendix of Forms). The parties must also have had a clear understanding of the nature of the agreement, and it must be for a certain stated sum, otherwise it will not be binding on the salvors.

The sum agreed upon must not be grossly exorbitant, showing that the salvors have used the misfortune of the ship in distress to exact a species of blackmail, or the agreement can be set aside by the Court of Admiralty.

Salvors have a lien on the ship or property saved, and can, therefore, retain possession of it till they are paid for their services. By the Merchant Shipping Act, 1894, s. 552, the receiver of wreck (generally the collector of customs) at each port is authorised to detain a ship and cargo on which a salvage claim is made till the amount is paid, or a bail bond is executed for her release.

If the amount claimed for salvage does not exceed £300 in Great Britain, and £200 in Ireland, or if the value of the property saved does not exceed £1,000 in England, or in any case where the parties to the dispute consent, the County Courts have jurisdiction to decide the matter summarily. In Scotland a similar jurisdiction is conferred on the sheriffs, and in Ireland on the recorders of boroughs, or the chairmen of quarter sessions in counties, or two justices of the peace, or a stipendiary magistrate. In Great Britain there is a right of appeal to the Admiralty Court; and in Ireland to the High Court, but only if the sum in dispute exceeds £50.

CALLING FOR ORDERS.

The port or ports to which the vessel is bound outward must be named before sailing, and the shipowner is not bound to take a supercargo in the ship to decide, after the vessel sails, which port she is to go to, unless a special agreement to that effect has been made by the charter, or otherwise. The port of discharge for a *homeward* voyage, however, is frequently not to be named until the vessel arrives at some port of call. If the charter provides that the master is to call at a certain port or ports for orders, he is bound to call there, and to put himself in communication with the parties to whom the merchant has referred him at such port or ports; but he is not bound to call at any port for orders unless there is a stipulation to that effect in the charter. If the charter does not name any port of call, but only says the ship is to proceed to a safe port, then

the charterer is bound to name the port of discharge before the vessel sails. If there are no orders ready for him at the port of call, the captain is not *obliged* to apply by letter or telegraph to the merchant (although it may often be *advisable* for him to do so); but if no orders come for him, he has the right, after waiting a reasonable time for the order, to sail for any one of the several ports to which the merchant might have ordered him under the charter. If, however, there is anything in the charter which gives a preference to one port over the others, he should go to that port, if no orders come for him to go elsewhere.

If the port of discharge is to be a "safe port," then the port must not only be one safe in situation, depth of water, &c., and into which the ship can enter and discharge her cargo in physical safety, and without danger of doing herself any damage by lying aground, but it must also be a port then open for commerce. If the Government of the country has prohibited vessels from entering it without permission, it is not a safe port, as the vessel would be liable to be confiscated if she entered without permission.

COLLISION.

It was said by Lord Stowell that there are four possibilities under which a collision may occur :—

1st. It may happen without blame being imputable to either party, as where the loss is occasioned by a storm, &c., or by inevitable accident which ordinary skill and caution could not have prevented. In that case the misfortune must be borne by the party on whom it happens to light, the other not being responsible to him in any degree.

2nd. It may happen by the misconduct of the suffering party only, and then the rule is, that the sufferer must bear the whole loss himself.

3rd. It may have been the fault of the ship which ran the other down ; and in this case the innocent party is entitled to entire compensation from the other.

Lastly. It may arise where *both* parties are to blame, where there has been a want of diligence or skill on both sides. In such a case, in the Court of Admiralty, the loss is apportioned equally between them. Until the Supreme Court of Judicature Act, 1873, this rule did not apply to the Common Law Courts, which held that if the party seeking redress is in anywise the author of his own wrong, he must bear the consequences to himself. However, by sec. 25, sub-sec. 9, of that Act, it is provided that, in ANY cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found in fault, the Admiralty rule before mentioned shall apply.

If the plaintiff has been guilty of negligence which was only *remotely* connected with the accident, and not the *direct* cause of it, that fact will not relieve the defendant from his duty to use ordinary care, the want of which was the direct cause of the accident ; and if such want of care was the cause of the accident, the plaintiff will be entitled to recover damages, although he may have been guilty of negligence in some collateral matter only remotely connected with

the accident. A man is not at liberty to cast himself on an obstruction which has been made by the fault of another. He must use ordinary caution and diligence in taking care of himself ; and if that diligence is wanting, he will be liable for the damages caused by his neglect.

If a collision is altogether accidental, and not the fault of either party, or if it is caused solely by the fault of the *other* ship, in these cases the loss is considered to be a peril of the sea, and the underwriters will be liable to make it good.

A ship doing damage is, by law, considered to be under the management and control of the servants of her registered owners, unless the contrary is shown. The party doing damage is liable to pay the whole cost of repairs without deducting one-third new for old ; that deduction is only made when compensation for damage is made by underwriters.

It is the imperative duty of those in charge of ships to keep a good look-out, and particularly in thick weather, or in places where there are many dangers to be avoided ; and the same remarks generally apply to the speed of a ship. The men who are entrusted with the navigation of a ship should know these duties and be able to perform them.

In every case of collision the master shall (under a penalty of £20), when practicable, immediately after the occurrence, cause a statement of the facts and circumstances to be entered in the official log-book (if any), and such entry shall be signed by the master and also by the mate or one of the crew.

By sec. 422 of the Merchant Shipping Act, 1894, it is made the duty (in case of collision) of the master or person in charge of each vessel, if possible, to assist the other vessel, having regard first to the safety of his own vessel, crew, or passengers, also to give the captain or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the particulars of the voyage she is making. If the master fails to do so without reasonable cause, the collision shall, in the absence of proof to the contrary, be deemed to be owing to his wrongful act, neglect, or

default, and he is guilty of a misdemeanour. An inquiry may be held into his conduct, and his certificate may be cancelled or suspended.

LIMITATION OF SHIPOWNER'S LIABILITY.

By sec. 633 of the Merchant Shipping Act, 1894, the master or owner are relieved from responsibility for all loss or damage caused by the fault or incapacity of any qualified pilot in charge of the ship within any district where the employment of such pilot is compulsory by law.

To relieve the shipowner from liability, the pilotage must not only be compulsory on the shipowner, but the pilot must have been *solely* to blame; if the damage was caused by the insufficiency of the ship or her equipments, or by the incompetence of the crew, or by their not obeying the pilot's orders, or if the crew were partly to blame, the shipowner will be liable although a pilot were on board. If the pilotage is not compulsory, the owner will be liable for all damage, even if it is caused by the fault of the pilot.

On the same principle the shipowner is not liable for damage caused by the fault of harbour-masters when the ship is bound to obey their directions, but the burthen of proving that the damage occurred from the pilot's or harbour-master's fault lies on the owner.

By sec. 503 of the Merchant Shipping Act, 1894, it is provided that the liability of shipowners for damage occurring without their actual fault or privity, shall be limited to the following amounts:—

1. In respect of loss of life or personal injury, either alone or together with loss of or damage to vessels, goods, merchandise, or other things, an aggregate amount not exceeding £15 for each ton of their ship's tonnage; and

2. In respect of loss of, or damage to, vessels, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, an aggregate amount not exceeding £8 for each ton of their ship's tonnage.

In the case of sailing ships, the amount is to be calculated on the register tonnage, and in the case of steam-vessels on the gross tonnage without deduction on account of engine room.

If several losses occur at one time, the shipowner only incurs one total liability, restricted to the above amount, but if two losses occur on distinct occasions, the shipowner is liable to the above extent for each occasion.

If one claimant sues and obtains a judgment before the others commence their suit, he thereby secures priority over the other claimants. On application by the owner, the superior Courts have power to consolidate the several claims into one, where there is more than one claimant, and to distribute the amount awarded rateably among them.

See Addenda.

THE RULE OF THE ROAD AT SEA.

The following is a copy of the rules issued by the Admiralty and the Board of Trade, under sec. 418 of the Merchant Shipping Act, 1894. These rules, originally enacted by the Merchant Shipping Act of 1862, have been amended by various Orders in Council, and are now accepted by nearly all maritime nations.*

It may sometimes be necessary, under very special circumstances, to depart from these rules in cases of immediate danger; for instance, if the vessels are so close that a collision cannot possibly be prevented, then in order to ease the blow, it is allowable at the last moment to alter the helm, or if the ship would run ashore by altering her helm, then she is not bound to do so.

* Recently, proposals have been made to complicate the use of these Rules by the institution of a confusing system of *Sound Signals*, formulated at the International Maritime Conference held at Washington in 1889, and this has met with strenuous opposition from the British shipping interests. These proposed Rules have not yet come into force, and will probably be discarded.

Cynics say that collisions are often owing to the rules for preventing them, and that any fresh rule introduced only increases the number. There is a solid substratum of truth in this. Is it not time that masters, officers, and seamen, had some voice in the appointment of *fit* and *practical* persons on Government Committees for the consideration of practical matters connected with their profession, and the safety of their lives at sea

Whenever the helm is to be altered, everything else must be done to the sails, &c., which is necessary to make the ship answer her helm.

A vessel under steam is bound always to give way to a sailing vessel.

It has been held that steam ships when engaged in towing other vessels are not to be subject to the rules so strictly as steam ships which are going free.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.*

Art. 1. Preliminary.—In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship; and every steam ship which is under steam, whether under sail or not, is to be considered a ship under steam.

RULES CONCERNING LIGHTS.

Art. 2. The lights mentioned in the following Articles, numbered 3, 4, 5, 6, 7, 8, 9, 10, and 11, and no others, shall be carried in all weathers, from sunset to sunrise.

Art. 3. Lights for Steam Ships.—A seagoing steam ship, when under weigh, shall carry :—

(a.) *On or in front of the foremast*, at a height above the hull of not less than 20 feet, and if the breadth of the ship exceeds 20 feet, then at a height above the hull not less than such breadth, a *bright white* light, so constructed as to show an uniform and unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the ship, viz., from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least 5 miles.

* These rules are binding on all British vessels, and all foreign vessels navigating in British waters, and also on all foreign vessels belonging to States which have adopted the rules, in whatever waters they may be sailing. The rules have now been adopted by the following countries :—Austro-Hungary, Belgium, Brazil, Chili, Cochin, Denmark, Ecuador, France, Great Britain, German Empire, Greece, Hawaii, Italy, Japan, Katiawar, Khelat, Kutch, Muscat, The Netherlands, Norway, Portugal, Russia, Spain, Sweden, Travancore, Turkey, United States, and Zanzibar.

(b.) *On the starboard side, a green light* so constructed as to show an uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least 2 miles.

(c.) *On the port side, a red light*, so constructed as to show an uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least 2 miles.

(d.) The said *green and red* side lights shall be fitted with inboard screens, projecting at least 3 feet forward from the light, so as to prevent these lights from being seen across the bow.

By an Order in Council, January 30th, 1893, the following sub-section was added to the Regulations:—

(e.) To ensure that the *red and green* side lights shall show an uniform light from right ahead of the ship to 2 points abaft the beam on the port and starboard sides respectively, and shall not show across the bow of the ship itself, the said lights must be fixed and the screens fitted so that the rays from the *red and green* lights shall cross the line of the ship's keel projected ahead of the ship at a reasonable distance ahead of the ship.*

Art. 4. *Lights for Steam Tugs.*—A steam ship, when towing another ship, shall carry, in addition to her side lights, *two bright white* lights in a vertical line one over the other, not less than 3 feet apart, so as to distinguish her from other steam ships. Each of these lights shall be of the same construction and character, and shall be carried in the same position, as the *white* light, which other steam ships are required to carry.

Art. 5. *Ships not under command.*—(a.) A ship, whether a steam ship or a sailing ship, which *from any accident* is not under command, shall at night carry, in the same position as the *white* light which steam ships are required to carry, and, if a steam ship, in place of that light, *three red* lights in globular lanterns, each not less than 10 inches in diameter, in a vertical line one over the other, not less than 3 feet apart, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least 2 miles; and shall by day carry in a vertical line one over the other, not less than 3 feet apart, in front of but not lower than her foremast head, *three black balls* or shapes, each 2 feet in diameter.

* Under this Order, the Board of Trade require the lights to be so fitted that a line drawn from the outside edge of the wick to the foremost end of the inboard screen shall make an angle of 4° with a line drawn parallel with the keel of the ship from the outside edge of the wick. This requirement is also now being reconsidered.

(b.) A ship, whether a steam ship or a sailing ship, *employed in laying or in picking up a telegraph cable*, shall at night carry in the same position as the *white* light which steam ships are required to carry, and, if a steam ship, in place of that light, *three* lights in globular lanterns each not less than 10 inches in diameter, in a vertical line one over another, not less than 6 feet apart; the highest and lowest of these lights shall be *red*, and the middle light shall be *white*, and they shall be of such a character that the *red* lights shall be visible at the same distance as the *white* light. By day she shall carry in a vertical line one over the other not less than 6 feet apart, in front of but not lower than her foremast head, *three shapes* not less than 2 feet in diameter, of which the top and bottom shall be *globular* in shape and *red* in colour, and the middle one *diamond* in shape and *white*.

(c.) The ships referred to in this Article, when not making any way through the water, shall not carry the side lights, but when making way shall carry them.

(d.) The lights and shapes required to be shown by this Article are to be taken by other ships as signals that the ship showing them is not under command, and cannot therefore get out of the way.

(The signals to be made by ships in distress are contained in Art. 27).

Art. 6. *Lights for Sailing Ships.*—A sailing ship under way, or being towed, shall carry the same lights as are provided by Art. 8 for a steam ship under way, with the exception of the *white* light, which she shall never carry.

Art. 7. *Exceptional Lights for Small Vessels, &c.*—Whenever, as in the case of small vessels during bad weather, the *green* and *red* side lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the *green* light shall not be seen on the port side, nor the *red* light on the starboard side.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the colour of the light they respectively contain, and shall be provided with proper screens.

Art. 8. *Light for Ships at Anchor.*—A ship, whether a steam ship, or a sailing ship, when at anchor shall carry where it can be best seen, but at a height not exceeding 20 feet above the hull, a *white* light in a globular lantern of not less than 8 inches in diameter, and so constructed as to show a clear, uniform, and unbroken light, visible all round the horizon, at a distance of at least 1 mile.

Art. 9. *Lights for Pilot Vessels.*—A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a *white* light at the mast head, visible all round the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed 15 minutes.

A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships.

Steam Pilot Vessels.—By Order in Council, August 18, 1892, a steam pilot vessel exclusively employed for the service of pilots licensed or certified in the United Kingdom, when engaged on her station in pilotage duty and in British waters, and *not at anchor*, shall, in addition to the lights required for all pilot boats, carry at a distance of 8 feet below her *white* mast-head light a *red* light visible all round the horizon, and visible on a dark night with a clear atmosphere for at least 2 miles, and also the coloured side lights required to be carried by vessels when under way.

When engaged on her station on pilotage duty, and in British waters, and *at anchor*, she shall carry in addition to the light required for all pilot boats the *red* light above mentioned but not the coloured side lights.

When not on duty she shall carry the same lights as are carried by other steam vessels.

Art. 10. *Lights for Fishing Vessels and Boats.*—Open boats and fishing vessels of less than 20 tons net registered tonnage, when under way and when not having their nets, trawls, dredges, or lines in the water, shall not be obliged to carry the coloured side lights; but every such boat and vessel shall in lieu thereof have ready at hand a lantern with a *green* glass on the one side and a *red* glass on the other side, and on approaching to or being approached by another vessel such lantern shall be exhibited in sufficient time to prevent collision, so that the *green* light shall not be seen on the port side nor the *red* light on the starboard side.

The following sub-sections apply only to fishing vessels and boats when in the sea off the coast of Europe lying North of Cape Finisterre:—

(a.) All fishing vessels and fishing boats of 20 tons net registered tonnage, or upwards, when under way and when not required by the following regulations in this Article to carry and show the lights therein named, shall carry and show the same lights as other vessels under way.

(b.) All vessels when engaged in fishing with drift nets shall exhibit *two white* lights from any part of the vessel where they can be best seen. Such lights shall be placed so that the vertical distance between them shall be not less than 6 feet and not more than 10 feet; and so that the horizontal distance between them measured in a line with the keel of the vessel shall be not less than 5 feet and not more than 10 feet. The lower of these two lights shall be the more forward, and both of them shall be of such a character, and contained in lanterns of such a construction as to show all round the horizon, on a dark night with a clear atmosphere, for a distance of not less than 3 miles.

(c.) A vessel employed in line fishing with her lines out shall carry the same lights as a vessel when engaged in fishing with drift nets.

(d.) If a vessel when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction, she shall show the light and make the fog signal for a vessel at anchor.

(e.) Fishing vessels and open boats may at any time use a flare-up in addition to the lights which they are by this Article required to carry and show. All flare-up lights exhibited by a vessel when trawling, dredging, or fishing with any kind of drag net shall be shown at the after part of the vessel, excepting that, if the vessel is hanging by the stern to her trawl dredge, or drag net, they shall be exhibited from the bow.

(f.) Every fishing vessel and every open boat when at anchor between sunset and sunrise shall exhibit a *white* light visible all round the horizon at a distance of at least 1 mile.

(g.) In fog, mist, or falling snow, a drift net vessel attached to her nets, and a vessel when trawling, dredging, or fishing with any kind of drag net, and a vessel employed in line fishing with her lines out, shall at intervals of not more than 2 minutes make a blast with her fog horn and ring her bell alternately.

Fishing Vessels Engaged in Trawling.—By Orders in Council dated December 30th, 1884, and June 24th, 1885, the following supplementary regulations were issued regarding the lights to be used by fishing vessels engaged in trawling in the above waters.

Steam Vessels, if of 20 tons gross register tonnage or upwards, engaged in trawling, when under steam, and having their trawls in the water, and not being stationary in consequence of their gear getting fast to a rock or other obstruction, shall between sunset and sunrise either carry and show the lights required by Art. 3, or shall carry and show in lieu thereof and in substitution therefor, *but not in addition thereto* :—

(1.) On or in front of the foremast head and in the same position as the *white* light which other steam ships are required to carry, a lantern, showing a *white* light ahead, a *green* light on the starboard side, and a *red* light on the port side. Such lantern shall be so constructed, fitted, and arranged as to show an uniform and unbroken *white* light over an arc of the horizon of 4 points of the compass; a *green* light over an arc of 10 points; and a *red* light over an arc of 10 points. And it shall be so fixed as to show the *white* light from right ahead to 2 points on the bow on each side of the ship; the *green* light from 2 points on the starboard bow to 4 points abaft the beam on the starboard side; and the *red* light from 2 points on the port bow to 4 points abaft the beam on the port side: and

(2.) A *white* light in a globular lantern of not less than 8 inches in diameter, and so constructed as to show a clear, uniform, and unbroken light all round the horizon. The lantern shall be carried lower than the lantern showing the *green*, *white*, and *red* lights, so, however, that the vertical distance between them shall not be less than 6 feet nor more than 12 feet.

Sailing Vessels engaged in trawling, and having their trawls in the water, and not being stationary in consequence of their gear getting fast to a rock or other obstruction, shall between sunset and sunrise either carry and show the lights required by Art. 6, or shall carry and show in lieu thereof and in substitution therefor, *but not in addition thereto* :—

(1.) On or in front of the foremast head a lantern having a *green* glass on the starboard side and a *red* glass on the port side, so constructed, fitted, and arranged that the *red* and *green* do not converge, and so as to show an uniform and unbroken *green* light over an arc of the horizon of 12 points of the compass, and a *red* light over an arc of 12 points. And it shall be so fixed as to show the *green* light from right ahead to 4 points abaft the beam on the starboard side, and the *red* light from right ahead to 4 points abaft the beam on the port side: and

(2.) A *white* light in a globular lantern of not less than 8 inches in diameter, and so constructed as to show a clear uniform and unbroken light all round the horizon. This lantern shall be carried lower than the lantern showing the *green* and *red* lights, so, however, that the vertical distance between them shall not be less than 6 feet and not more than 12 feet.

Or, in place of the above two lanterns, shall carry and show :—

A *white* light in a globular lantern of not less than 8 inches in diameter, and so constructed as to show a clear uniform and unbroken light all round the horizon; and also a sufficient supply of *red* pyrotechnic lights which shall each burn for at least 30 seconds, and be visible for at least 2 miles. The *white* light shall be shown from sunset to sunrise, and one of the *red* pyrotechnic lights shall be shown on approaching, or on being approached by, another ship or vessel, in sufficient time to prevent collision.

The above lights shall be of such a character as to be visible at a distance of not less than 2 miles on a dark night, with a clear atmosphere.

Art. 11. Stern Light on Vessel being Overtaken.—A ship which is being overtaken by another shall show from her stern to such last-mentioned ship a *white* light or a flare-up light.

Art. 12. Sound Signals for Fog, &c.—A steam ship shall be provided with a steam whistle or other efficient steam sound signal, so placed that the sound may not be intercepted by any obstructions, and with an efficient fog horn to be sounded by a bellows or other mechanical means, and also with an efficient bell.* A sailing ship shall be provided with a similar fog horn and bell.

* In all cases where the Regulations require a bell to be used a drum will be substituted on board Turkish vessels.

In fog, mist, or falling snow, whether by day or night, the signals described in this Article shall be used as follows; that is to say,—

(a.) A steam ship under way shall make with her steam whistle or other steam sound signal, at intervals of not more than 2 minutes, a prolonged blast.

(b.) A sailing ship under way shall make with her fog horn, at intervals of not more than 2 minutes, when on the starboard tack one blast; when on the port tack two blasts in succession; and when with the wind abaft the beam three blasts in succession.

(c.) A steam ship and a sailing ship, when not under way, shall, at intervals of not more than 2 minutes, ring the bell.

Art. 13. *Speed of Ships to be moderate in Fog, &c.*—Every ship, whether a sailing ship or steam ship, shall, in a fog, mist, or falling snow, go at a moderate speed.

STEERING AND SAILING RULES.

Art. 14. *Sailing Ships.*—When two sailing ships are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, viz. :—

(a.) A ship which is running free shall keep out of the way of a ship which is close-hauled.

(b.) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack.

(c.) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other.

(d.) When both are running free with the wind on the same side, the ship which is to windward shall keep out of the way of the ship which is to leeward.

(e.) A ship which has the wind aft shall keep out of the way of the other ship.

Art. 15. *Steam Ships Meeting.*—If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This Article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are, when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which,

by day, each ship sees the masts of the other in a line, or nearly in a line, with her own ; and by night, to cases in which each ship is in such a position as to see both the side lights of the other.

It does not apply, by day, to cases in which a ship sees another ahead crossing her own course ; or by night, to cases where the *red* light of one ship is opposed to the *red* light of the other, or where the *green* light of one ship is opposed to the *green* light of the other, or where a *red* light without a *green* light, or a *green* light without a *red* light, is seen ahead, or where both *green* and *red* lights are seen anywhere but ahead.

Art. 16. *Two Ships under Steam Crossing.*—If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 17. *Sailing Ship and Ship under Steam.*—If two ships, one of which is a sailing ship and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship.

Art. 18. *Ships under Steam to Slacken Speed.*—Every steam ship, when approaching another ship, so as to involve risk of collision, shall slacken her speed, or stop and reverse, if necessary.

Art. 19. *Signals by Steam Whistle.*—In taking any course authorised or required by these Regulations, a steam ship under way may indicate that course to any other ship which she has in sight by the following signals on her steam whistle, viz. :—

One short blast to mean "I am directing my course to starboard."

Two short blasts to mean "I am directing my course to port."

Three short blasts to mean "I am going full speed astern."

The use of these signals is optional, but if they are used the course of the ship must be in accordance with the signal made.

Art. 20. *A Vessel Overtaking another Vessel.*—Notwithstanding anything contained in any preceding Article, every ship, whether a sailing ship or a steam ship, overtaking any other, shall keep out of the way of the overtaken ship.

Art. 21. *Steam Ships in Narrow Channels.*—In narrow channels every steam ship shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such ship.

Art. 22. *Construction of above Rules.*—Where by the above rules one of two ships is to keep out of the way, the other shall keep her course.

Art. 23. *Proviso to Save Special Cases.*—In obeying and construing these rules, due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

Art. 24. *No Ship, under any Circumstances, to Neglect Proper Precautions.*—Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Art. 25. *Rules for Harbours and Inland Navigation.*—Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbour, river, or inland navigation.

Art. 26. *Special Lights for Squadrons and Convoys.*—Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war, or for ships sailing under convoy.

Art. 27. *Signals of Distress.*—When a ship is in distress and requires assistance from other ships or from the shore, the following shall be the signals to be used or displayed by her, either together or separately; that is to say,—

In the daytime—

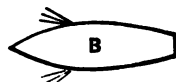
1. A gun fired at intervals of about a minute.
2. The international Code Signal of distress indicated by N C.
3. The distant signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball.

At night—

1. A gun fired at intervals of about a minute.
2. Flames on the ship (as from a burning tar barrel, oil barrel, &c.).
3. Rockets or shells, throwing stars of any colour or description, fired one at a time, at short intervals.

The result of Articles 3 and 6 is that—

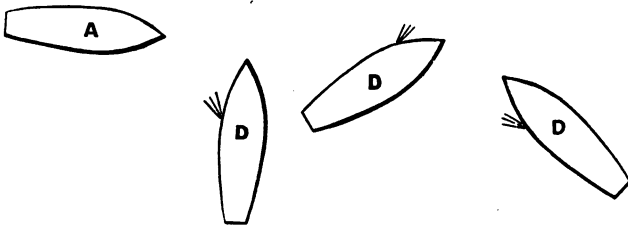
When *both the red and green lights* are seen right ahead, another vessel must be approaching in an exactly opposite direction, thus—



If the *red light only* is seen, then either a vessel is approaching on the port bow, thus—



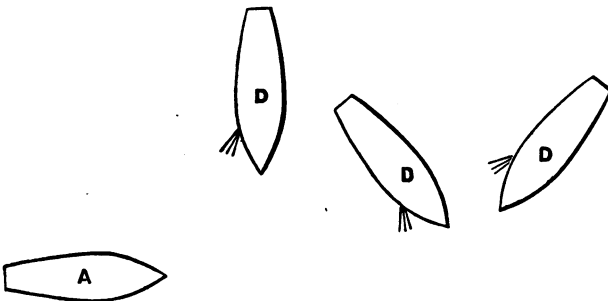
or is crossing in some direction to port, thus—



If the *green light only* is seen, then either a vessel is approaching on the starboard bow, thus—



or else a vessel is crossing in some direction to starboard, thus—

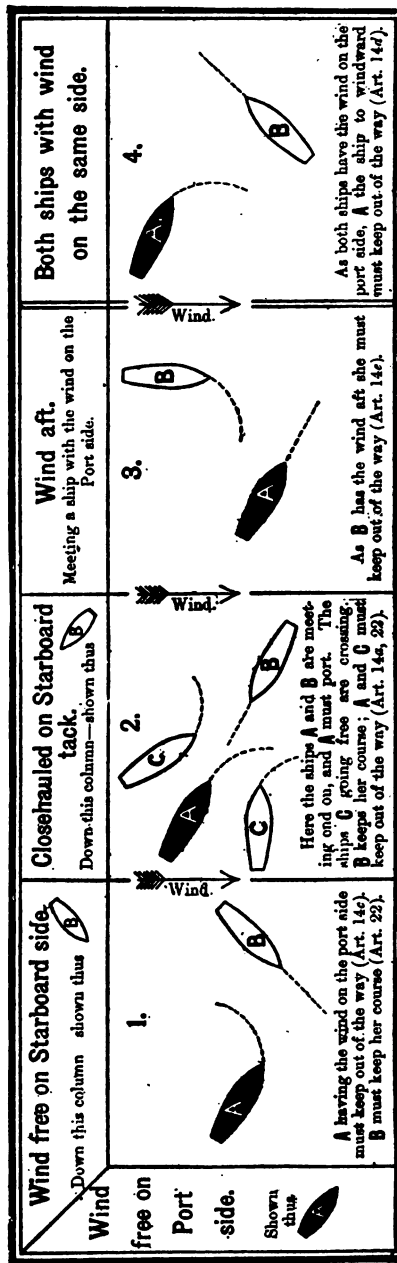


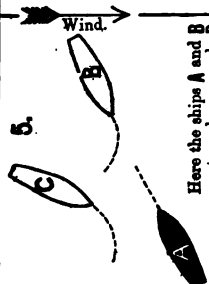
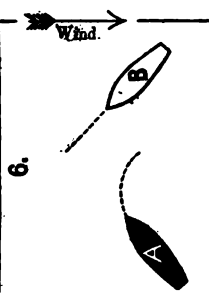
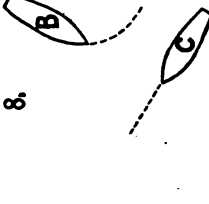
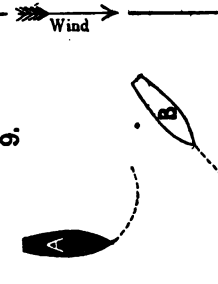
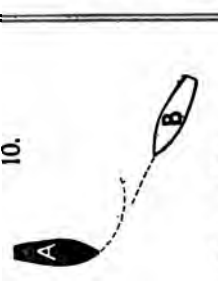
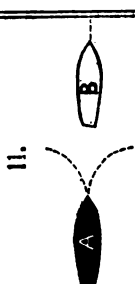
And if, in any of the above cases, a *white* light is also seen above the coloured lights, then the vessel must be a steamer.

COLLISION DIAGRAM, ILLUSTRATING THE STEERING AND SAILING RULES UNDER THE MERCHANT SHIPPING ACT,

and Showing at a Glance, by Plans arranged in a Tabular Form, the only Positions in which it is possible for Two Sailing Ships to approach each other, with Danger of Collision, in any State of the Wind; *showing also the Course to be taken by each Ship under those Rules to avoid Collision.*

N.B.—The Wind is, in each case, supposed to be blowing from the top of the Sheet, as shown by the Arrows.



Close-hauled on the Port tack. — Shown thus 	5.  Here the ships A and B meet end on, and B must port. The ship C going free is crossing. A keeps her course (Art. 22), and B and C make way (Art. 14a).	6.  Both ships being close-hauled, A the ship on the port tack keeps out of the way (Art. 14b). B keeps her course.	7.  As B has the wind aft she must keep out of the way (Art. 14c).	8.  As both have the wind on the starboard side, B the ship to windward keeps out of the way of A (Art. 14d).
Wind aft. Meeting a ship with the Wind on the Starboard side.	9.  A having the wind aft must keep out of the way of B (Art. 14c). B must keep her course (Art. 22).	10. 	STEERING AND SAILING RULES For Sailing Ships, now in force under THE MERCHANT SHIPPING ACT ART. 1.—In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship. ART. 14.—When two sailing ships are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, viz. :— (a.) A ship which is running free shall keep out of the way of a ship which is close-hauled (see figures 2 and 5). (b.) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack (see fig. 6). (c.) When both are running free with the wind on different sides, the ship with the wind on the port side shall keep out of the way (see fig. 1). the ship with the wind on the same side, the ship which is to windward shall keep out of the way of the other ship (see figs. 3, 7, 9, and 10). (d.) When both are running free with the wind which is to leeward (see figures 4 and 8). (e.) A ship which has the wind aft shall keep out of the way of the other ship (see figs. 3, 7, 9, and 10). ART. 17.—If two ships, one a sailing ship and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship. ART. 20.—A vessel overtaking another vessel shall keep out of the way of the latter vessel (see fig. 11). ART. 22.—Where by the above rules one of two ships is to keep out of the way, the other shall keep her course, subject to the qualification contained in the following Article. ART. 23.—In obeying and constraining these rules, due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.	
A Vessel over-taking another Vessel. 	11.  As the vessel A is overtaking the vessel B, A must keep out of the way. (Art. 20).			

NOTES ON THE FOREGOING REGULATIONS.

The regulations have been held to apply to seagoing vessels only, and not to barges which navigate only in rivers ; but they apply to steam tugs, whether towing vessels or not.

When there has been a breach of the regulations, and a collision has occurred, it is to be considered to have been caused by the non-observance of the regulations, unless the contrary is clearly proved. If a vessel takes advantage of Art. 23, and a collision occurs notwithstanding, she will have to show that the departure from the rule was necessary to avoid immediate danger, and also that the course she adopted was reasonably calculated to avoid that danger.

The fact of the moon being full and bright is no excuse for not carrying the lights. If the lights are damaged by the sea, they should be replaced as soon as possible, and in the meantime a light of some sort should be shown.

It has been decided that, when a ship is seen at a considerable distance, the course should not be changed at once, neither should there be any undue delay ; but the probable course of the other vessel is to be observed, and then the helm must be altered, if necessary, without further delay.

It was decided in the celebrated "*Franconia*" case, that a vessel is overtaking another vessel within the meaning of Articles 18 and 20, and not crossing within the meaning of Art. 16, when she is going faster than the other vessel and is so much behind her as to be unable to see either of the side lights of such other vessel.

The expression "keep out of the way" used in the foregoing regulations has been held to mean, as a general rule, going astern of the other ship, but under some circumstances it is otherwise.

In all cases of *doubt* the safer course is to port the helm.

STOPPAGE *IN TRANSITU*.

If the consignee has obtained the goods or cargo on credit, and he become bankrupt or insolvent* before the goods are delivered to him, the consignor, although he may have parted with the possession of the goods to the shipowner, can stop their delivery, and retake them at any time before they are actually delivered to the consignee, unless the consignee has sold them to a third party, who has no notice of any irregularity, and has paid cash for them, *bona fide*.

But if the bill of lading is stolen from the consignor, or appropriated without his authority, and it is afterwards indorsed over, then the right of the consignor will not be defeated, even if the indorsee acts *bona fide*, and pays value for the goods.

The right to stop the goods can be exercised, not only if the whole, but also if a part only, of the purchase-money remains unpaid, and it may be exercised if the goods were sold on credit, and the term of credit has not expired, and even if the vendor has taken a bill of exchange in payment for them, and negotiated it. In the case, however, of goods sent to a party "on sale or return," this right cannot be exercised, such party not being considered to become the *owner* of such goods on delivery, nor does the principal part with his property in them.

The right to stop can only be exercised by or on behalf of the consignor of the goods. The consignor, or an agent properly authorised by him, may give notice to the captain or other person who has the immediate custody of the goods not to deliver them to the consignee, and the captain is then bound to deliver them to the consignor, or his nominee, unless he is aware of some fact which defeats the consignor's right to stop the goods *in transitu*. If the notice is given

* By insolvency is meant merely a general (but *certain*) inability to pay debts, though there may not be actual bankruptcy.

by the consignor to the shipowner, he is bound at once to write and inform his captain of it.

If more persons than one claim the goods, the captain should, before delivering them, obtain from the claimant to whom he proposes to deliver the goods a proper indemnity against all other claims, or, if that is refused, the captain can protect himself by an interpleader summons.

If the consignor stop the goods, he can only hold them until the balance due to him is paid, and he cannot sell them unless the consignee (or his trustee, if he has become bankrupt) refuse to take them, and pay the price.

The right to stop *in transitu* depends on three conditions :—

1. The vendor must be unpaid.
2. The vendee must be insolvent.
3. The vendee must not have indorsed over the bill of lading for value to an innocent third party, or obtained actual or constructive possession of the goods.

Notice to stop *in transitu* should be given in writing, but need not be drawn up in any particular form. It must expressly request the captain not to deliver the cargo or goods to the party named in the bills of lading, and should name some other party to receive them.

END OF THE VOYAGE.

ON the arrival of the vessel at her destination, it is the duty of the captain to have her safely moored in a place appropriate to the vessel, and to the trade she is in, or if the charter states that she is to go to any particular part of the harbour, then she must proceed to the place which has been agreed on. But the captain and consignee may agree between themselves for the delivery of the cargo at any particular place, in the same port, different from the place (if any) named in the charter.

If the charter does not specify any particular part of the harbour at which the ship is to discharge, and there happens to be more than one place in the harbour where such cargoes are habitually discharged, the captain is bound to take his ship to whichever of such places of discharge the merchant orders him to. The captain, however, is justified in going in the first instance to any one of the usual places for discharging such a cargo as he has on board ; but if the consignee, on being informed of the ship's arrival, requires the captain to move his ship to one of the other places of discharge, the captain is bound to do so. The captain is entitled to be paid the expenses incurred in mooring the ship at the place he first goes to ; but he is not justified in refusing to move the ship until after he is paid ; he is bound to move the ship, and should make his claim for the expenses afterwards.

If it is impossible for the ship to reach the place of discharge at *any* tide, without first having part of her cargo unloaded to lighten her, then the merchant is liable to pay for all delay caused by the lightening of the ship. The merchant has the right, if he wishes to do so, to unload a reasonable part of the cargo outside the harbour at his own expense, to enable the ship to enter the port.

As soon as the ship arrives at her port of discharge she should be entered at the Custom House.

It is the duty of the captain to prepare without delay to deliver the cargo, but he is not *bound* to give a notice to the merchant that the ship is ready to discharge, although it is very desirable that he should do so. It is the duty of the merchant to watch for the arrival of the ship.

Before commencing to unload, the captain should see the bill of lading held by the person claiming the cargo, and that it is properly indorsed. It would be well for the captain to make on the back of his own copy of the bill of lading a copy of all indorsements (if any) which are on the back of the bill of lading which is produced to him. The captain is not bound to deliver the cargo unless the bill of lading is produced by the person claiming the cargo. If the consignee cannot produce the bill of lading, the captain is however justified in delivering the cargo to him if he gives a proper indemnity to save the captain harmless against all other claims, and such consignee is a substantial and respectable person. (See Appendix of Forms).

If the bills of lading are presented to the captain by two different claimants of the cargo, he is justified in delivering the cargo to the person who first presents a properly indorsed bill of lading. It is not the captain's duty to inquire or decide who has the best right, but he should, if possible, get an indemnity from the claimant to whom he delivers the cargo, agreeing to protect him against all other claims. (See Appendix of Forms). If such indemnity be not forthcoming, the captain should land and warehouse the goods in his own name, as security for freight and charges.

If the ship has met with heavy weather, and the captain suspects the cargo to be damaged, he should have the hatches, cargo, and damage properly surveyed by practical men, and obtain a written report from them before interfering with the cargo, and he should note a protest at the earliest opportunity.

FOUL BERTHS.

The captain is not bound to take his vessel to a place which is not safe and convenient, and where her safety would be imperilled, and if a dock company or harbour commissioners, or their officers, place a ship in a berth where the ground is uneven, and not in a proper condition to receive vessels, they are liable to make good all damage which may be caused by the bad berth.

If one vessel gives another a foul berth, whereby damage is caused, the owners of the vessel at fault are liable to an action for the amount of the damage, unless the ship has been moored under the direction of the harbour-master or his deputy, and then she is released from all responsibility for the consequences, if any damage occurs from her being moored in an improper place.

DELIVERY OF THE CARGO.

THE shipowner or captain is not bound to give notice to the consignee of the arrival of the ship (unless that has been agreed in the charter); but the consignee is bound to watch for the arrival of the ship, and be ready within a reasonable time after her arrival to unload her. If, however, the captain is aware of the name and address of the consignee, it is as well for him to give notice as soon as he reasonably can of his arrival.

If the ship is to discharge at a certain place, "or so near thereto as she may safely get," that means so near as she can safely get, unless she is prevented by some permanent obstruction. If the ship can get to the place named at a suitable tide, she will have to wait till the tide suits without receiving any demurrage, and the lay days will not begin to run till she arrives at the place named.

If the charter requires the ship to unload *at* a wharf, that has been held to mean *alongside* the wharf, and the ship may have to wait until the tide suits before the lay days begin.

The consignee, however, has not a right to order the ship to discharge at any place, excepting the usual and customary places of discharge in the port, unless otherwise stipulated in the charter, or at a place which can only be reached during a few days in each year. The consignee is entitled to have a reasonable time allowed him to receive the goods from the ship's side, unless there is some custom, or some express agreement in the bill of lading, to the contrary, and he is bound to receive it according to the custom of the port and the usage of the trade.

If it is necessary to discharge the cargo into lighters, it is the duty of the consignee to send the lighters. In London, by the custom of the port, if the cargo is discharged into lighters, the captain is bound to take care of the goods till the lighter is filled, and after that it is at the risk of the consignee, if it is he who provides the lighters. But if the lighters are employed and paid for by the shipowner, then he will be responsible to the consignee for any damage which may occur

to the cargo on its road from the ship to the shore, and the lighter-man is responsible to the person who employs him for all damage the goods may sustain while they are under his charge. Lightermen are subject to all the same responsibilities as common carriers.

As the captain has a lien on the cargo for the amount of the freight, he should, before delivering up the whole of the cargo, obtain payment of the freight, if it has to be paid in cash, or if it is to be paid by bill, he should get a proper bill, according to charter.

If the captain has signed bills of lading, acknowledging the receipt of goods which were never shipped, his owners will not be bound by that; they will only be responsible to the consignee for such goods as have been actually put on board, as the captain has no implied authority from the owners to sign for more goods than he actually receives. But the quantity named in the bill of lading is conclusive against the captain (personally) who signs the bill of lading, unless the holder or consignee had actual notice at the time he received the bill of lading that the goods had not, in fact, been put on board. But the master may exonerate himself from this liability if he can show that the error was caused by the fraud of either the shipper or the consignee. The captain should get an accurate receipt for all goods delivered, and have an exact account kept of all goods put out of the ship.

If any general average contribution is due from the cargo, the captain has also a lien on the cargo for that amount, and if the parties are beyond the jurisdiction of the English Courts, or in insolvent, or doubtful, circumstances, he should get it paid in cash, if possible. If the average cannot be at once adjusted, and therefore cannot be paid in cash, the captain, before he parts with the cargo, shall get a proper security from the receiver of the cargo, guaranteed, if necessary, by some responsible person, agreeing to pay the amount as soon as it can be adjusted. If the captain delivers it to the consignee without obtaining from him the amount of such contribution, he must then look to the shipper or owner of the goods for payment, and not to the consignee.

If the bill of lading is not produced, the captain may, after waiting a reasonable time, deliver the goods on the shore, or at a wharf, to

some third person, to keep until the bill of lading is produced ; and, in discharging cargoes at ports in the United Kingdom, further powers are given to the owners and captains of ships by Section 493 of the Merchant Shipping Act, 1894. Under that section, if the owner of any goods imported from abroad does not enter the goods at the Custom House, or take delivery of them, the shipowner may, at any time after the time named in the charter or bill of lading, for delivery of the goods, or if no time is named, then at any time after seventy-two hours, exclusive of Sundays and holidays, after the report of the ship at the Custom House :—

1. Enter the said goods at the Custom House.

2. Afterwards land them on the wharf or in the warehouse named in the charter or bill of lading, if there is room there. If there is no particular wharf named, or if there is no room there, then he can land the goods at any wharf where such goods are usually landed.

If the consignee has not taken delivery of the cargo on expiry of the lay-days, the captain should give him notice of such expiry, and that the ship is on demurrage, with an intimation that if delivery is not taken before expiry of the demurrage days he will land and warehouse the cargo in his own name, as security for freight, &c.

DAMAGE TO THE CARGO.

As a general rule, the shipowner is bound to deliver the cargo in as good a condition as it was in when it was delivered to him, and it is the duty of the master to take all possible care of it. If he neglects to do so, the shipowner will be liable for all damage which is caused by the negligence or misconduct of himself, or his captain, or crew, even if the bill of lading says he is not to be liable for any damage. If the cargo has received damage, *prima facie* the shipowner is liable and it will rest with him to prove that the damage was not caused by the fault of himself, or the ship, or any of his crew ; therefore if anything has occurred which may have damaged the cargo, the captain should be careful to have both the damage, and also the hatches, stowage, and dunnage, &c., properly surveyed by competent persons.

The shipowner is liable for damage caused by the unseaworthiness of the ship, or by overloading, or by bad stowage, or want of proper dunnage, or by rats (unless such damage is excepted in the charter and bill of lading), or by the ship not being properly pumped, or by not having the cargo ventilated (so far as it can be done).

The shipowner is not liable for damage if caused by the act of God (which includes lightning, tempests, &c.), the king's enemies, perils of the seas, accidental fire, or any other damage which may occur, without any negligence on the part of himself or his servants, or from any fault in the ship or her equipments. The phrase "dangers and accidents of the seas" excepted by the charter and bill of lading has been held to mean those dangers naturally incident to navigation, and which cannot be avoided by human agency or care.

Formerly the merchant had no right to deduct from the freight any sum claimed by him for damage done to the cargo, or short delivery, unless the *amount due to him* for the short delivery or damage were agreed on by the shipowner or captain, and the consignee was bound to pay the freight in full, and afterwards make his claim for damage. Since the passing of the English Judicature Act, 1875, a deduction of this kind may be made, and if an action is commenced against the consignee for balance of freight, he can plead such damage by way of set-off or counter-claim.

A loss caused by an unavoidable collision is a loss by the perils of the sea, and therefore the shipowner is not liable to the merchant for any damage to the cargo occasioned thereby. An unavoidable accident has been defined to be an occurrence which could not have been prevented by that *ordinary* skill and diligence which is generally found in persons who properly discharge their duty. Extraordinary skill or diligence is not legally required.

If the shipowner or his servants have been guilty of any negligence, they cannot avoid liability for damage attributable to such negligence by showing that it would probably have occurred even if the greatest care had been used.

The shipowner, however, is only responsible for such acts of the

master as are done within the scope of the authority expressly or impliedly given to him, and he is not even liable for *all* acts done by the master within the scope of his general authority. Each case must depend upon its own particular circumstances. The shipowner is liable for errors of judgment, or for the negligence or unskilfulness on the part of the master while he is in the execution of his duty, but he is not liable for an illegal, or for a wilful or malicious act, done by the master or the crew beyond the scope of his or their duty.

By sec. 502 of the Merchant Shipping Act, 1894, the owner of any seagoing ship is not liable for any damage that may happen without his actual fault or privity by reason of fire on board the ship, or the robbery, &c., of any gold, silver, diamonds, watches, jewels, or precious stones, unless the owner or shipper have at the time of shipment inserted in his bills of lading, or otherwise declared in writing to the shipowner or master, the true nature and value of such precious articles.

PORT DUES AND WEIGHING CHARGES.

Payments due to harbour authorities for weighing out a cargo are payable by the shipowner, if it be necessary to weigh the cargo *before* it leaves the ship; but if the cargo is to be weighed after it is landed, then the consignee is liable, and if the amount is paid in the first instance by the captain he can recover it back from the consignee.

PAYMENT OF THE FREIGHT.

No freight is due until the voyage is completed, unless there is some stipulation in the charter for payment of the freight or a portion of it in advance.

If a part of the freight is paid in advance under an agreement to that effect in the charter, and the ship is lost, the money so advanced cannot be recovered back from the shipowner. But if it was advanced merely as a loan, and not as part of the freight, or if the amount is described in the charter not as freight, but merely as an advance of money to meet disbursements, or if the charter contains no agreement to advance it, or if the loss of the ship has been caused by the negligence of the captain, then the merchant can recover it back if the ship is lost.

If it is agreed by the charter that if the captain signs bills of lading for freight below the charter rate, he is to receive the difference in cash, or by bill, and he so signs bills of lading, but does not so obtain the difference, then the shipowner, if the ship be lost, can still recover such difference from the charterer.

If the charter says the amount is to be advanced "subject to insurance," it is then considered part of the freight, and cannot be recovered back.

If the charter stipulates that the freight, or a portion of it, is to be paid at the expiration of a certain time after the sailing of the ship, before the right delivery of the cargo, and if before that time arrives the ship be totally lost, still the shipowner can enforce payment of the freight as agreed when the stipulated time arrives.

THE PARTIES LIABLE TO PAY AND RECEIVE FREIGHT.

The charterer is always liable to pay the freight (unless there is some special agreement to the contrary in the charter party), and so also is a consignee, who receives the goods as owner of them, by indorsement of the bill of lading. Therefore, after the cargo is

delivered, if the freight is not paid, the shipowner has the option of suing either the charterer or the consignee. If the captain signs bills of lading expressing that the freight is to be paid by the consignee, that will not release the charterer from his liability.

In order to make the consignee liable, it is necessary that he should *receive* the goods as *owner* of them. If the consignee has no interest in the goods he does not, by accepting the goods as agent, make himself personally liable to pay the freight. If the consignee indorses over the bill of lading to another person, he does not continue liable to pay the freight, but the actual receiver is liable.

The parties entitled to receive the freight are the persons who are owners of the ship at the time when the freight becomes due by the completion of the voyage.

If the ship is sold during the voyage, the freight is payable to the person who is owner of the ship when the voyage is completed, and it is not divided between the late and the present owners.

A mortgagee of a ship is not entitled to receive the freight unless he has express authority to do so from the owner, or unless he is in possession of the ship when the freight becomes due. But when he takes possession he is entitled to take the whole freight; but he should be careful to keep an accurate account of all payments and receipts, for he is liable to pay the mortgagor all moneys received beyond proper expenses and the interest on the loan, and also liable for all moneys which might have been made but for his neglect or default.

AMOUNT OF FREIGHT.

The amount of freight is *prima facie* to be calculated on the quantity of goods delivered, but if they have increased in bulk during the voyage (for instance, by heating, in the case of a cargo of grain), then the freight is to be calculated not on the quantity of goods which the ship puts out at the port of delivery, but upon that quantity only which has been put on board, carried through the whole voyage, and delivered at the end of it. If the quantity decreases, as in the case of molasses, &c., then the freight is payable only on the quantity delivered and not on the quantity shipped.

Even if the whole cargo is carried to its destination but it is impossible to deliver the whole of it in consequence of the commencement of hostilities or any other cause, still freight will only be payable on the quantity actually delivered.

If a lump sum has to be paid for the freight, and, in consequence of some accident, a part of the cargo only is delivered, a proportionate sum will be payable for the freight, on the amount of cargo delivered.

If the cargo is so much damaged that when it arrives at its destination it is not worth the freight, the merchant cannot avoid payment of the freight by abandoning the cargo to the shipowner, whatever may have been the cause of the damage.

If there is a deficiency in the weight of a cargo which is not naturally liable to decrease in weight, the onus lies on the shipowner of proving that the deficiency has not been caused by the negligence of himself or his captain or crew.

"Right and true delivery," means delivery of the right quantity, although the quality may be damaged.

If the freighter agrees to supply a full cargo and does not do so, he is bound to pay to the shipowner the sum which would be payable in respect of a full cargo, whether he actually loads a full cargo or not, and the amount is to be reckoned on the tonnage which the ship is actually able to carry, and not on the tonnage (if any) named in the charter party.

If the merchant puts a deck load on board when the charter provides for a freight of a lump sum, without saying anything about a deck load, extra freight will be payable for the deck load at a proportionate rate, the deck load not counting as cargo stowed in the usual loading places of ships.

If the charter stipulates for payment of the freight in cash, the consignee has, in general, no right to claim any deduction for discount or interest in pursuance of any alleged "custom" of the port. Even if there is a custom of the kind alleged, it will not override the express terms of the charter, unless the shipowner knew, or might reasonably be supposed to know, of such custom before he entered into the charter.

If the charterer accepts the cargo at a port short of its destination, a proportionate part of the freight will be payable for the distance which it has been carried; such amount is not considered to become due under the charter, but the law implies that the merchant, by accepting the cargo, consents to pay a proportionate amount of freight.

The merchant is never liable to pay a higher amount of freight than is named in the charter, even if the captain, in consequence of some accident, cannot carry the cargo to its destination, and transships it at a higher freight.

SHIPOWNER'S LIEN ON THE CARGO.

The shipowner, or the captain on his behalf, has a right to retain possession of the cargo until the freight is paid, if the freight is payable on delivery of the cargo. If it is payable at some future day, then there is no lien, the shipowner must give up the cargo and wait for payment; but if the amount is to be paid by bills of exchange, then there is a lien on the cargo till the bills are given. If the person who is, under the charter, to sign the bills is known to be of no credit, still the cargo will have to be given up on receipt of the bills according to charter. If, however, a bill has already been given for the freight, and it has become ^{due} ~~due~~ and dishonoured before the ship arrives at her destination, then the lien is revived and the cargo can be held till the bill is paid, unless the ownership of the cargo has been changed in the meantime by a transfer of the bill of lading.

There is no lien for dead freight, for it is only ^{unliquidated} ~~unliquidated~~ damages by another name.

It is the duty of the merchant to ascertain for himself what amount of freight is due; and, if it is payable by bill, he should offer to accept a bill for that amount. If the captain or owner does not know the exact amount of freight, it is advisable for him to give an express written notice to the merchant offering to draw a bill on being informed what is the correct amount due.

If a good and approved bill has been agreed for, the merchant is bound to offer a bill to which no reasonable objection can be made,

and which *ought* to be approved by the shipowner. If the shipowner negotiates the bill, he cannot afterwards make any objection to it.

If, by the terms of the charter, the ship is to be navigated by the charterer, and at his own expense, and the shipowner is thus to give up the entire possession of the ship to the charterer, he loses his lien on the cargo, for he can only retain a lien so long as he retains possession of or control over the goods, unless the parting with possession is compulsory. The shipowner will not be considered to have given up the possession of the ship unless the words of the charter expressly state that to be the intention, and the contract can only be carried out in that way. The Courts are not inclined to put on charters a construction which will give the whole possession of the ship to the charterer.

Technically speaking, the freight is not due until the *whole* cargo is delivered; but if there is a partial delivery of cargo at one time and place, the shipowner may become entitled to freight on such portion. The law considers then that the shipowner has given up his lien on the goods delivered, because the merchant has undertaken to pay the freight thereon.

The captain can detain any part of the cargo for the freight due upon all that is consigned to the same person.

If the cargo is damaged, or if there is a short delivery, still the captain can hold it till the *whole* freight due on the quantity delivered is paid, even if the damage has been caused by the negligence of the captain, and the amount of damage exceeds the amount of the freight; and no alleged custom to the contrary will make any difference in this. If any damage has been caused by the negligence of the master, the merchant will have a separate claim for that against the shipowner, but one amount cannot be set off against the other so as to override the lien except by consent of both parties.

If the amount of freight named in the bill of lading is different from that named in the charter party, the captain can only claim from the consignee the amount named in the bill of lading, and he has only a lien on the cargo for that amount, and the balance must be claimed from the charterer. But if the cargo still continues the property of the charterer, or if the consignee, before receiving the

bill of lading, had full notice of all the terms of the charter, then he is liable to pay the amount of freight named in the charter, and the shipowner will have a lien for the whole sum.

If the freight is for a lump sum, and cannot be divided, then the lien would be for the amount named in the bill of lading.

The shipowner also has a lien on the cargo for any general average contribution which may be due from it; but there is no lien for demurrage, port charges, wharfage, or dead freight, unless specially agreed for by the charter party and bill of lading.

Under Sections 493 to 499 of the Merchant Shipping Act, 1894, when the owner of any goods imported in any ship from foreign parts into the United Kingdom fails to make entry thereof at the Custom House, or afterwards to take delivery with reasonable despatch at the time stipulated in the charter for delivery, or, if no time is named, within seventy-two hours (exclusive of Sunday or holiday) after the ship is reported at the Custom House, the shipowner or master may make entry of such goods, and land them at the wharf or warehouse named in the charter, or if none is named therein at some proper and usual wharf or warehouse. The shipowner should, when landing the goods, give written notice to the wharfinger or warehouseman that they are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in such notice. (See Appendix of Forms). The wharfinger or warehouseman is then bound to retain such goods until the amount is paid, or the matter otherwise satisfactorily settled.

The merchant can bail out the goods from the wharfinger or warehouseman, by depositing with him the amount claimed by the shipowner, and that sum will be paid over to the shipowner, unless within fifteen days the merchant gives a written and explanatory notice to the wharfinger requiring him to retain it, and if that notice is given, then the wharfinger must immediately inform the shipowner, and pay or tender to him the sum admitted by such notice to be payable. Unless the shipowner within thirty days from receiving such notice commences legal proceedings against the merchant to recover his claim, and give the wharfinger notice in writing of his having done so, the wharfinger must return the money or the balance

to the merchant. Therefore, as soon as the shipowner receives a notice from the wharfinger that the owner of the goods has ordered him to hold the money, he should consult a solicitor without any delay, as prompt steps must be taken.

If the owner of the goods make no deposit, and the lien is not discharged, the wharfinger or warehouseman may, after ninety days, or at an earlier period if the goods are of a ^{perishable} perishable nature, sell the goods or part of them by public auction, and apply the proceeds of sale to paying the customs or excise duties owing in respect thereof, the expenses of sale, the wharfinger's and warehouseman's charges for storing the goods, &c., the amount claimed by the shipowner, and then the balance, if any, is to be handed to the owner of the goods.

The shipowner's lien on the cargo may be lost :—

1st. By his taking a bill of exchange or other security for the money due, payable at a future day. 2nd. By wilfully injuring the goods ; or 3rd. By asserting a right to retain the goods on some other ground than the lien.

A demand of more than is due is not a waiver of the lien, neither is the delivery of a portion of the goods. A delivery of a portion is only an abandonment of the lien *pro tanto*, that is, so far as the portion of cargo delivered is concerned.

When goods are detained by the shipowner, subject to the claim of a lien which is disputed, the owner of the goods must either pay the amount claimed under protest in order to obtain possession of the goods, and then sue the person who claimed the lien, to recover the amount which he has thus wrongfully obtained ; or he can make a formal tender of the amount he considers really and legally due, and, if that is refused, he can then sue the person detaining the goods to recover the goods, and also damages for their detention. If the amount in dispute is not large, it is the duty of the owner of the goods to pay under protest the sum claimed, or he cannot recover full damages for the delay in case the detention was illegal.

If the person in possession of goods states expressly that he will not accept the amount really due, then no tender is necessary, but an action can be commenced at once.

SPECIAL ACTS IN FORCE IN THE PORT OF LONDON.

As the powers given to shipowners, wharfingers, and warehousemen, by local Acts are not taken away by the Merchant Shipping Act of 1894, the provisions contained in the special Acts relating to the dock companies and to the "legal quays" and "sufferance wharfs" of the port of London* are still in force at those wharfs and docks, in addition to the powers contained in the Merchant Shipping Act.

Under these special Acts, if the consignee of goods which have been imported neglects to make entry thereof at the Custom House for forty-eight hours from the day on which the ship has been reported at the Custom House (unless a longer time is allowed to him by his bill of lading or charter party for discharging the cargo), the master or owner of the ship may enter the cargo or any part of it in his own name, without any authority from the consignee, and land the goods, and, when so landed, they shall be considered to remain in the custody of the shipowner the same as if they had remained on board the ship, and they may be detained until the person applying for the delivery thereof pays the freight, wharfage, warehouse rent, and other charges payable thereon, and also delivers to the master or owner of the ship or his agent a duplicate of the bill of lading. Goods so warehoused are to be subject to all the same regulations as goods entered and warehoused under any of the Customs Acts.

The shipowner is empowered, by giving a written notice at the office of the wharfinger, to require him to detain the goods until the

* The following is a list of the "legal quays" and wharfs named in the Legal Quays Act, and to which these provisions are applicable:—Brewer's Quay, Chester's Quay, Galley Quay, Wool Quay, Custom House Quay, East India Wharf, Botolph Wharf, Hammond's Quay, Cox's Quay, and Fresh Wharf. The following are the "sufferance wharfs" named in the Sufferance Wharf Act, and which are also subject to the same provisions as legal quays:—Fenning's Wharf, Topping's Wharf, Chamberlain's Wharf, Cotton's Wharf, the Depot Wharf, Hay's Wharf, Beal's Wharf, Carpenter Smith's Wharf, Griffin's Wharf, Gun and Shot Wharf, Simon's Wharf, Pickle Herring Upper Wharf, Pickle Herring Lower Wharf, Mark Brown's Wharf, Davis's Wharf, Hartley's Wharf, and Butter's Wharf.

whole freight, wharfage, rent, and other charges are paid, provided that the notice is given before the wharfinger has issued a warrant for the delivery of the goods or accepted an order from the owner or consignee for the delivery of them. If the shipowner has given the wharfinger notice to stop the goods, the latter is bound to detain them until the owner or consignee has produced a withdrawal in writing of the order of stoppage, signed by the owner or master of the ship,* unless the owner or consignee of the goods deposits the money claimed for freight in the Bank of England (or some other bank, if the shipowner and consignee both agree to it) in the joint names of the consignee and the shipowner; but such deposit is not to prejudice the right of the owner to sue the party liable to pay the freight.

If the only question in dispute is the *amount* payable to the shipowner, the consignee is to declare in writing to the wharfinger the sum which he admits to be due, and the sum so admitted is to be paid to the shipowner, and then only the balance in dispute is to be deposited in the bank.

The wharfage, rent, and other charges payable to the wharfinger are to be paid within two months if the goods are of a perishable nature, or within twelve months if they are not of a perishable nature; or, if default is made in payment, the wharfinger may pay the duties payable on the goods, and sell them, after giving proper notices, as named in the Act.

Under the Acts relating to the London Docks, &c., those docks and the quays and premises belonging thereto are to be considered as "legal quays," and subject to all the regulations contained in the Legal Quays Act, and, in addition, they are authorised to issue to the owner of goods warehoused on their premises a certificate or warrant for the delivery of such goods, but no such warrant is to be issued until all liens or claims to which the goods are liable are discharged. The warrants so given are transferable by endorsement, and no notice to detain goods is available at those docks unless it is given before the warrant is issued.

* The owner or master is bound to sign such order of withdrawal on the freight being paid or tendered to him.

DEMURRAGE.

If a vessel is detained, either in loading or unloading, for a longer time than the number of days stated in the charter, the shipowner is entitled to demurrage. If no definite time is stipulated for loading, the charterer is bound to load the ship in a reasonable time after the ship is ready to receive cargo, and it is the duty of the charterer to have the cargo in readiness. A "reasonable time" means a reasonable time under ordinary circumstances, and if any *extraordinary* circumstance should delay the loading the delay will be at the charterer's expense. In deciding what is a reasonable time, the usage of the port (if any) is to be considered.

If the charter says the ship is to be loaded in regular turn, the question of what is a regular turn, if it is disputed, is a matter to be settled by a jury. It has been held, that in computing the "regular turn," the names of the ships must be placed in the order of their being ready to load, and not in the order of their arrival in the port.

"Usual despatch" has been held to mean the usual despatch of persons who have a cargo in readiness for the purpose of loading, and if the merchant is prevented from obtaining the cargo by any cause, he must pay the shipowner demurrage for the delay. A person who chartered a ship is supposed to be prepared with his cargo.

If the charter provides for a certain number of days on demurrage at so much per day, and the ship is detained longer than that time, then for all further days the shipowner is not restricted to the amount of demurrage named in the charter, but for the further days he can claim as "unliquidated damages" whatever amount of damage a jury may consider he has sustained by the delay. The amount of demurrage named in the charter will, however, be considered *prima facie* to be the amount due, unless the shipowner can prove that the sum named is inadequate. If the captain claims a larger amount than the sum named, notice to that effect should be at once given to the charterer.

Demurrage can only be claimed for detention at the port of loading, and at the port of discharge.

The lay days for loading commence to run as soon as the ship is ready to begin after her arrival at the place of loading, and according to the custom of loading such a cargo.

The lay days for discharging the cargo begin the day after the vessel is entered at the Custom House, and after her arrival at the usual place of discharge in the port of her destination, and not from the time of her arrival at the entrance of the port,* although a part of the cargo may, for the purposes of navigation, be taken out of her in the roads. But entry into the dock is sufficient without getting into a discharging berth. She must also be *ready* to discharge her cargo before the days begin to run. If, by the terms of the charter, the vessel has to discharge at some particular place in the port, the lay days do not commence till she has reached that place. If the vessel cannot reach the place of discharge till a spring-tide, the vessel will be bound to wait, without being entitled to demurrage. She must get to the place of discharge unless prevented by some *permanent* obstruction.

If the charter mentions "days" simply, without saying whether they are to be running days or working days, then running days are understood, and Sundays and holidays will be counted, unless there is some special custom of the port to reckon only working days. In London, by the custom of the port, "days" are understood to mean only working days, unless otherwise specified. After the ship is on demurrage all days (including Sundays and holidays) are counted, even if the charter specifies that the lay days are to be working days only, for that provision applies to the lay days only, and does not refer to the days when the ship is on demurrage. In calculating the number of days, any part of a day is reckoned the same as a whole day.

If, by reason of any accident, or other cause, not attributable to the merchant, it has become necessary for the shipowner to do

* The limits of the port may be very extensive, for instance Gravesend is part of the port of London.

repairs to the ship before she is fit to take in her cargo, the repairs must be completed before the time begins to run. But if it is the duty of the merchant, under the charter, to make alterations in the ship to enable her to receive the particular cargo, then he will be liable to pay demurrage for any delay on this account.

If, by the consent of all parties, it is agreed to send the ship to a new port of loading or discharge, the merchant will be entitled to the same number of days as he would have had at the port originally named.

The shipowner has no lien on the cargo for the demurrage, unless that is stipulated for in the charter and bill of lading. The captain has a right to settle a claim for demurrage arising at a foreign port, and it will generally be found advisable for him to do so if he can obtain a favourable settlement; for it is considered by the law to be for the owner's benefit that the matter should be promptly settled abroad, instead of leaving it for dispute and litigation at home.

CASES IN WHICH THE SHIPOWNER IS ENTITLED TO DEMURRAGE.

In the absence of any special agreement to the contrary the merchant is liable to pay demurrage if the delay arises from any cause which is not attributable to the shipowner or his agents. By law, the person who hires a vessel is considered to detain her, if, at the end of the stipulated time, he does not restore her to her owners; he is bound by the terms of his contract, and if he wishes to make any exception from the liability, it is his duty to provide for it specially in the contract, otherwise he will be liable for all delays whatever which are not attributable to the shipowner. The original charterer is liable to pay demurrage even though he has parted with the cargo and has nothing to do with the delay. It is sometimes provided by the charter party that the liability of the charterer shall cease on loading of the cargo being completed. But in the absence of any special agreement, or exceptions in the charter party, the merchant is liable to pay demurrage if he has agreed to load or

discharge the ship in a certain specified number of lay days and he is prevented from doing so in consequence of:—

The crowded state of the docks.

Frost, or the state of the weather after the ship is ready, and until she is completely loaded.*

Strikes among workmen, or riots, which may prevent the merchant from obtaining the cargo.

Disputes with railway companies, along whose lines the cargo is to be brought to the place of loading.

The non-arrival of the bill of lading.

The non-production of the landing papers.

The consignee being ignorant of the ship's arrival.

Quarantine regulations, which may delay the loading by prohibiting intercourse with the shore.

Custom House regulations.

Illegal acts of Custom House officers.

Prohibition by a foreign government to export the stipulated cargo.

Impossibility of obtaining a cargo at the port.

Dispute improperly caused by the merchant, which delays the ship, such as preventing the captain from signing proper bills of lading, &c.

Alterations and repairs which have to be made to the ship by the *merchant* to enable him to load the cargo.

Refusal of the merchant to pay freight when bound to do so.

Having to discharge a portion of the cargo outside the port to lighten the ship, and enable her to enter the harbour, or reach her discharging berth.

If, however, the merchant has only agreed in the charter party to load or discharge the ship in regular turn, or in a reasonable time, then he is only bound to load or discharge her within such a time as would be considered reasonable under *ordinary* circumstances, and

* But the merchant is not liable for demurrage caused by ice, &c., *after* the vessel is loaded or discharged.

he will then not be liable for delay caused by Custom House regulations, or other unforeseen circumstances.

If no definite number of lay days is named in the charter for unloading the cargo, then there is an implied contract on the part of the consignee to discharge the ship in the usual and customary time for unloading such a cargo, and he is bound to unload with reasonable despatch.

The consignee of goods under bill of lading embodying the terms of the charter is liable for demurrage at the port of discharge, but not for delay at the port of loading unless it is so stipulated in the bill of lading.

It has been held that the clause in the charter party exonerating the charterer from liability after the loading of the cargo does not exonerate him from demurrage for detention at the port of loading.

CASES IN WHICH THE SHIPOWNER IS NOT ENTITLED TO DEMURRAGE.

It has been held that the merchant is not liable to pay demurrage if the delay is caused by—

The detention of the ship by a hostile force.

The hostile occupation of the intended port.

The wrongful interference of the shipowner, or any fault or negligence attributable to him.

Repairs which the *shipowner* is bound to make before the cargo is loaded.

The damaged condition of the ship, which may prevent her sailing.

Impossibility of the ship obtaining clearance, or accidents of any kind, or frost or bad weather *after* the loading of the cargo is completed.

Where the charterer undertook to load the ship before the 1st of September, but did not complete loading until the 28th of October, and just after sailing she met with an adverse wind, and had to put back, and was frozen up all the winter, it was decided that the shipowner was only entitled to demurrage up to the 28th of October, the day when the ship was cleared out and ready to sail. The ship,

however, might have returned home in ballast after the 1st of September, and then claimed dead freight.

If the charter exempts the merchant from liability for delay by ice, that will protect him, not only in respect of delays caused by ice in the port of shipment, but also by ice which may prevent the cargo from being brought to the port from the place whence it is usually obtained.

If neither party has contracted, either expressly or impliedly, that there shall be no delay, then the owner of the cargo is not liable for any delay caused by unforeseen circumstances over which neither party had any control.

Where a given number of days is allowed for loading or discharging, there is an implied contract on the part of the charterer that from the time the ship arrives at the usual place for loading or discharging he will take the risk of any ordinary vicissitudes which may occur to prevent his releasing the ship at the expiration of the lay days. X

DEMURRAGE WHILE REPAIRING DAMAGE.

In case damage is wrongfully done to a ship by collision or otherwise, the owner of the injured vessel is entitled to claim, in addition to the amount of damage done to her, compensation for the loss he has sustained by her non-employment during the repairs.

In the Court of Admiralty the amount allowed for sailing ships for damages during repairs is twopence per ton per day when the crew has been discharged; threepence per ton per day when part of the crew has been discharged, and the master and mate only remain; and fourpence per ton per day when the whole crew is on board. For steam vessels the rate allowed is higher, being sixpence per ton on the gross tonnage, or ninepence per ton on the nett tonnage, per day with the crew on board. These amounts, of course, vary with the special circumstances, but usually the amount awarded is within the above-mentioned limits.

PROTESTS.

WHEN from home the captain should note a protest if the ship has been wrecked, or if any damage occurs to the ship for which there will be a claim against the merchant or underwriters, or if the merchant refuses to load or unload the cargo, or if he does not load the right kind of cargo, or if he does not load a full cargo when bound to do so, or if he causes any detention in loading or unloading, or if he refuses to sign a charter party according to agreement, &c.

If there is not a notary at the port he should make the protest either before the British consul, if there is one, or some officer of the British Government, such as a magistrate, or collector of customs, and it is then advisable for the captain to keep a copy of the noting. If made before a magistrate, &c., he should sign the copy, showing that it is a true copy. If the protest is not made before a notary, the person before whom it is made should make a memorandum at the end, certifying that there is not any public notary at or near the place where the protest is made.

Neither a magistrate, nor a collector of customs, nor any one except a notary or a consul, is entitled to any fee for noting a protest.

To save expense, it is *generally* advisable merely to *note* the protest, and not to extend it, as it can be extended afterwards, and it is not necessary that the extended protest should be made before the same notary who noted the first protest. In extending the protest great care should be taken to have all the statements correct in every detail.

It is the duty of the captain and crew to make a protest if required by the owners or consignees of the cargo; but the captain cannot be compelled to do it at his own expense. The person requiring it should pay all the expenses.

If the noting of the protest has been delayed from any cause, it is better to add to the entry a short statement giving the reason for the delay.

If the captain's services are required at the ship, he must not leave his duty to seek a notary—it is sufficient if the protest is noted within forty-eight hours from the time the captain is first able to leave the vessel.

The following fees are those usually payable to notaries for protests, &c. ; but there is no fixed scale of charges, and each case must depend upon the amount of time and trouble involved.

	£	s.	d.
Noting each protest	0	2	6
If the protest is extended, then also, Fee on taking instructions for extended protest	0	6	8
Drawing, engrossing, and registering the protest, for each " folio " (72 words), exclusive of stamps	0	2	0
Stamp for each sheet	0	1	0
Fee for attending reading over the protest to the captain	0	3	4
Fee for administering each declaration	0	1	0
Fee for notarial seal	0	2	6

For Certified Copies of Protests.

Notarial copy of any document, for each folio of 72 words	0	0	6
Notarial certificate that same is a true copy, with attestation and seal (exclusive of stamps and fees for attendances) ...	0	12	6

In the Appendix will be found a list of Fees chargeable by British Consular officers in regard to noting protests, and to other matters affecting shipping.

THE HOMEWARD CARGO.

If the merchant who is to supply the homeward cargo has no interest in the outward cargo, the captain is bound to give notice to him or his agents that the ship is ready to receive her homeward cargo, and if this notice is not given, the charterer will not be liable to pay damages if no cargo is supplied to the ship.

If the merchant refuses to furnish a homeward cargo when that has been agreed for by the charter, or if he does not load the vessel within the stipulated time, the captain can then either charter the vessel for another cargo, or if that cannot conveniently be done, he can sail home in ballast, and the shipowner will be entitled to recover from the charterer a sum equal to the full freight the ship would have earned if she had been loaded according to the charter. The captain, however, should not return in ballast if he can obtain another cargo; he is bound to do what is reasonable in endeavouring to earn a freight, to reduce the amount of the loss, and he should, therefore, as soon as the charterer has finally and definitely refused to supply a cargo, or as soon as the time he has agreed by the charter to wait for a cargo is expired, re-charter the vessel at the best homeward freight he can find, and then the deficiency of freight only, with the expenses of obtaining the new charter, will have to be paid by the original charterer.

To constitute a breach of the charter, the refusal must be clear and positive, and if, after the merchant does refuse, the captain declines to accept this refusal, or continues still to demand a supply of the cargo, then the shipowner or captain cannot treat such refusal by the merchant as a breach of the charter, but the captain will be bound to carry out his portion of the charter, and wait till the whole of the lay days are expired before re-chartering or sailing home.

The captain is bound to wait the whole of the lay days before he is justified either in sailing home or re-chartering, unless the charterer or his agent specially requests him to re-charter, or states positively

that no cargo will be furnished, and in either event it is advisable to note a protest before either re-chartering or taking in ballast.

If there is any fear of ice setting in, and the ship being frozen in port during the loading of the cargo, the merchant will not be liable to pay demurrage during the whole time the vessel is frozen up; his liability will cease as soon as he completes the loading of the ship. If the time during which the merchant should have loaded the ship is expired, he cannot require her to remain any longer, and the captain should, therefore, sail with such cargo as he has already got on board, rather than run the risk of being frozen up over the winter.

If the merchant cannot supply the cargo he has agreed to furnish, but offers to supply a different cargo, the captain should take such a cargo as the merchant can give (provided it is not dangerous or injurious to the ship), first noting a protest, and afterwards claim for any damage by reason of the breach of charter. If the shipper of the cargo is only the agent of the charterer, he has no authority to substitute a different port of loading, or a different voyage, instead of that named in the charter, and if he does so without authority his principal will not be bound by it. The captain should, therefore, be careful to see that the shipper of the cargo has got such express authority before he alters the port of loading or changes the voyage.

If, when the ship arrives at her destination, the captain is unable either to deliver the cargo or to dispose of it by leaving it in safe custody, and he is forced to bring it back again, a return freight will be recoverable from the charterer.

SHIPBROKERS' COMMISSIONS.

A SHIPBROKER's right to his commission depends entirely on the usage of trade. The law assumes that the parties assent to pay the broker the usual commission unless a special agreement has been made respecting his remuneration. But as the usage is only admitted in evidence to show the supposed intention of the parties, evidence of former transactions between the same parties may be given for the purpose of explaining their intention in the matter in question.

To entitle the broker to commission, he must first be either actually or constructively employed; secondly, he must introduce the parties to each other; and, lastly, the business must have been completed in consequence of such introduction; and if these conditions are complied with, the parties cannot by any arrangement among themselves defeat his right to his commission.

First, he must be either actually or constructively employed. The principal cannot be liable unless there is either some express employment by him or recognition and adoption of the services of the broker. If the principal recognises and adopts the services of the broker, knowing that he is a broker, he is assumed also to agree to pay for the services, and he cannot afterwards repudiate his liability. Unless there is *some* agency established, there is no foundation for any contract between the parties. A jury must decide whether they are satisfied that, *with the assent of both* parties the plaintiff is the agent or middleman, by whose means the negotiation was commenced and made.

Secondly, he must introduce the parties to each other, either personally or by name, or bring them into communication with each other, with the object of effecting the business. A mere dry introduction is not enough; the particulars of the business must be named to the parties, and the negotiation of the business must be the direct result of the introduction. If the broker communicates to the merchant what the shipowner charges, and also communicates to the shipowner what the merchant will give, and he names the ship and

the parties, so as to identify the transaction, and a charter party be ultimately effected for that voyage, the broker is entitled to commission ; but if he does not mention the names, so as to identify the transaction, he does not get his commission, to the exclusion of another broker, who afterwards introduces the parties personally to each other.

The introduction he has made must be the foundation on which the business proceeds ; therefore, as a general rule, the first broker who introduces the two principals to each other is entitled to the commission ; but if, before the introduction by the broker, the ship has been pointed out to the merchant without that being the basis of any negotiations, that fact will not deprive a broker of his right to commission who afterwards brings the parties together for the purpose of effecting the business. Thus, in one case, a broker introduced a purchaser to the owner of a ship which was for sale ; but before that time another person, who was not a broker, had pointed out the same vessel lying in the dock to the same purchaser, and stated that she was for sale, but he did not know who was the owner. The broker, who afterwards introduced the parties personally to each other, was held entitled to his commission.

After the broker has introduced the parties to each other, they cannot evade payment of the commission, either by settling the terms or completing the business themselves, or by doing it through another broker. The question is whether the sale really proceeds in effect from the acts of the brokers, though they did not actually complete the contract. A dry introduction of one man to another would not be enough. But if the introduction is the foundation on which the negotiations proceed, and without which they would not have proceeded, then the parties cannot, by their agreement, deprive the broker of his just remuneration.

Thirdly, to entitle the broker to his commission it is necessary that the business should be completed ; if it is not completed he has no right to charge anything for his trouble, even if the negotiation is broken off by the fault of the shipowner ; and it was held in one case that, according to the usage of the City of London, if a charter is effected, but the bargain afterwards goes off, the broker has no claim

either for commission or for payment of the expenses he has incurred, and the rule is the same even if the bargain goes off in consequence of the principal refusing to confirm his own terms.

He is entitled to his commission as soon as a valid agreement, whether for sale or charter of the ship, has been entered into, and the amount of the commission depends upon the custom, unless some special agreement has been made. If there is no uniform usage, he is entitled to a reasonable remuneration for his services, which in case of dispute may have to be settled by a jury.

It has been decided that a shipbroker's commission for effecting a charter is in all cases £5 per cent. on the amount of the freight, and is payable by the shipowner.

If the *amount* of the freight depends on a contingency, the broker cannot sue for his commission till that contingency is determined. So long, however, as the amount of the freight can be ascertained, he is entitled to his commission on that amount, although the ship may be lost and the freight never earned, or although no cargo may be supplied by the merchant. In one case, in which the freight had to be paid on the quantity of cargo delivered at the end of the voyage, and the ship was lost before the voyage was completed, the broker was held to be entitled to such a sum as the jury could estimate the amount at.

The mere fact that a broker has first introduced a customer does not give him a right to any commission on any *future* transaction which is not the direct result of further intervention on his part. But in a recent case, where a charter was renewed for a second voyage on the same terms between the same parties and for the same ship, it was held that the broker was entitled to a commission on that also.

The party to whom the commission is payable is the broker who actually procures the charter for the shipowner. But if the charter party says how or to whom the commission is to be paid, then, after signing the charter, the shipowner is bound by that.

If one broker introduces a customer to another broker, the introducing broker is entitled to receive from the other a share of the commission according to the universal practice among brokers; but

the connection of the introducing broker with the business must not be too remote. Thus, in the case of *Gibson v. Crick*, the plaintiff, a broker, introduced the defendant, a shipowner, to Messrs. Spicer, who were also brokers, and they introduced him to a Captain Lay, and Captain Lay took him to Mr. De Mattos, who ultimately chartered the ship, and employed a broker named Bowan to complete it. The Court decided that Gibson was not entitled to any commission, as there was no direct connection between him and the merchant, and because they were not the persons who negotiated the charter, but they only set in motion the news that a charter was wanted for the ship.

If several brokers are employed separately, the one who first introduces the parties to each other is entitled to the commission.

If, in consequence of the negligence of the broker (by neglecting to stamp the charter, for instance), the shipowner derives no benefit from his services, then the broker is not able to recover the commission, but, on the contrary, is liable to the shipowner in an action for damages sustained in consequence of his negligence.

MARINE INSURANCE.

A POLICY of marine insurance is a contract whereby one person in consideration of a premium undertakes to indemnify another from loss which may be caused by certain perils named in the policy. It is a contract in which, by the law of England, the strictest good faith is required, otherwise it will not be binding on the underwriter. The principles of marine insurance differ materially from those of fire insurance and life insurance, a marine insurance being strictly a contract of indemnity against loss, as will be seen hereafter.

INSURABLE INTERESTS.

Any person who has an *interest* in a ship, goods, freight, money, or profits, &c., may insure his interest, but no one can become entitled to any benefit under a policy unless he has some interest in the subject insured. He need not have a right to the whole, nor even to any definite part, but he must have some interest in it. The interest need not be existing at the time the policy is made, it is sufficient if there is an interest at the time of the loss, therefore freight which will hereafter arise from a voyage may be insured. The policy need not disclose the nature of the interest; thus, if a mortgagee insures he need not state in the policy that he is mortgagee.

If the ship is sold, the purchaser does not become entitled to any benefit of the policies then effected on her unless he has made an express agreement to that effect with the former owner.

A consignee who is owner of goods can lawfully insure them; but if he is only agent for another person, then he can only insure for the benefit of the real owner. The owner of goods can also insure the profit or commission which he expects to make upon the goods. The master may insure his wages, but the seamen cannot do so. Money advanced on bottomry can also be insured by the lender, to protect himself from the loss which he would sustain if the ship did not reach her destination.

A charterer who has advanced money to the shipowner on account of freight, has an insurable interest in the amount he has advanced, but if the money is advanced, not as part of the *freight*, but only as a *loan* to meet disbursements, then the charterer has no insurable interest in it.

An underwriter who has insured any risk may re-insure the same risk, so as to indemnify himself against loss under the policy he has underwritten.

A contract of marine insurance is in the eye of the law strictly a contract of *indemnity*, to protect the insured against loss, and not to enable him to make a profit out of the insurance. An insurer, therefore, cannot insure goods in which he has no interest, neither can he insure any greater sum than the amount of his interest in the subject-matter insured; but he may in the policy fix his own value on the interest, and that will be binding on both assured and underwriter provided that the interest has not been over-valued with any fraudulent intention. If any fraudulent over-valuation has been made, the policy is altogether void, and the assured cannot recover anything under it, not even the real amount of his interest.

Wager Policies :—A policy on a *British* ship or her cargo is void under the Statute 19 Geo. III., c. 37, if, on the face of it, it professes to dispense with the necessity of any proof of the interest of the assured, either by the words “interest or no interest,” or “without further proof of interest than the policy,” or “without benefit of salvage to the insurer,” or “policy to be deemed proof of interest,” or any similar words with the same object. A mere valued policy, however, is not within the Act, and so long as the assured has *some bona fide* interest, it is quite competent for him to fix his own value upon it in the policy.

Illegal Insurances :—Voyages which are prohibited by the law, and goods which are intended for some illegal trade (such as smuggling, &c.) cannot be insured. If a policy is void in consequence of its having been effected for an illegal voyage, the assured cannot recover back the premium, unless he can show that he was altogether ignorant of the illegal intention.

The subjects of a neutral state have a right to trade with a

belligerent (subject, of course, to the risk of the goods being seized by the other belligerent), and an insurance of such goods is therefore valid, and the underwriter is liable if he was informed of the nature of the risk before the policy was effected.

A vessel attempting to run a blockade is liable to be confiscated if captured, but the voyage is not an illegal one, and an insurance can therefore be effected on it; but to make the underwriter liable he should be informed of the object of the voyage, as it is not an ordinary risk.

INSURANCE AGENTS.

Insurances effected with private underwriters are usually negotiated by brokers. An insurance broker who undertakes to effect an insurance is bound to exercise proper skill and diligence, and he must insert all clauses usually inserted in policies for the voyage intended to be insured against. If he fail to do so he is liable to his employer for any loss which the latter may sustain in consequence of such neglect. The agent who effects an insurance is entitled to a commission of £5 per cent. on the premium, but under the Stamp Acts he is not entitled to charge any commission unless a properly stamped policy has been executed. Any insurance agent or other person who issues a document purporting to be a copy of a policy while there is not in existence a policy duly stamped, whereof such document is a copy, is liable to a penalty of £100.

The broker is liable to the underwriter for the amount of the premium, but in respect of losses under the policy, the underwriter is liable to account with the assured, and not with the broker. The shipowner, however, is liable to the broker, and not to the underwriter, for the amount of the premium of insurance, and after issuing a policy the underwriter must look to the broker for payment of the premium; he cannot claim it from the shipowner, as the receipt in the policy discharges him from liability.

The broker has a lien on the policy for the amount due to him for premiums, and he can therefore retain it until he is paid.

A part owner of a ship has no implied authority to effect an insurance as agent for his co-owners, and if he insures without

authority he cannot charge the premiums against his co-owners, unless they have since adopted the insurance. A part owner who is ship's husband, however, usually receives authority to insure in the agreement by which he is appointed.

MISREPRESENTATION AND CONCEALMENT.

In effecting a contract of insurance the utmost good faith must be observed by both parties, and if the assured, before effecting the insurance, either wilfully or through ignorance misrepresents or conceals any facts which might have influenced the underwriter in accepting the risk or in fixing the amount of the premium, the policy will be void, even if the underwriter has not been in any way prejudiced by the concealment or misrepresentation. If, however, the assured merely states his *bona fide* belief that a certain fact is true without alleging it as a fact, that will not avoid the policy. The misrepresentation need not be in writing, a merely verbal misstatement is sufficient to avoid a policy. If the representation is inserted in the policy it then becomes a *warranty*, and must be literally and strictly complied with; if *not* inserted in the policy the assured is protected, provided that the representation is *substantially* true.

A "concealment," in order to vitiate a policy, must be the suppression of some *material* fact known to the assured, and which the underwriter has not the means of knowing. Any circumstance is considered material which would probably make the risk appear greater to the underwriter.

Good faith forbids either party, by concealing what he knows, to draw the other into a bargain from his ignorance of the facts. The facts lie most commonly in the knowledge of the assured only; the underwriter trusts to his representation, and relies upon the assured not keeping back any circumstance to mislead him, or which would influence him in estimating the risk. The keeping back such circumstance is a fraud, and although the suppression may happen simply through a mistake, the policy is void because the risk is different from that which was understood and intended to be incurred by the underwriter.

The assured, however, is not bound to mention what the underwriter knows, or ought to know. For example, the contents of Lloyd's Lists are supposed to be known to the underwriters; but the assured must not make any misrepresentation to prevent the underwriter from looking at the List. Nor is it necessary for the assured to give information as to what lessens the risk, nor general topics of speculation, nor loose rumours, nor the difficulty of the voyage, &c., and he need not explain customs of trade, or other similar matters which are supposed to be common knowledge.

If it should turn out that in consequence of some misrepresentation, the ship has not been legally insured the underwriter is bound to return the premium unless the misrepresentation was fraudulent.

WARRANTIES.

A warranty in marine insurance is a condition or contingency on which the validity of the entire policy depends. Warranties are of two kinds—(1) *express*, and (2) *implied*.

Express Warranties :—An express warranty is a statement inserted in writing on the face of the policy, either in the body of the policy, or in the margin, or at the foot, or contained in an annexed paper which is particularly referred to in the body of the policy. Every express warranty must be strictly and literally complied with, otherwise the policy is invalid. It is perfectly immaterial for what purpose a warranty is introduced, but when inserted the contract does not exist unless the warranty is strictly complied with.

The most usual express warranties which are inserted in policies are the following: That the ship will sail on, or before, a certain day, that the ship was safe on a certain day, that the ship (in time of war) is neutral property, &c., and no express form of words is necessary to constitute a warranty.

If a ship is warranted "to sail" before a certain day she must commence her voyage before that day. The warranty is not complied with by the vessel raising her anchor, getting under sail, and moving onwards, unless she has everything ready for the performance of the

voyage, and nothing remains to be done afterwards. If, however, the ship, after setting sail with the final intention of proceeding on the voyage, is detained by stress of weather, or other unforeseen cause, or if she has for a similar cause to put back to her port, that is not a breach of the warranty, for the warranty was complied with on the ship first setting sail from the port.

Implied Warranties :—In a voyage policy the principal implied warranties are the following: That the ship is seaworthy; that the ship has proper documents; that the assured will use proper diligence to avoid the risks insured against; that the ship will not deviate on her voyage. An implied warranty, however, can always be varied by an express stipulation in the policy.

Seaworthiness :—In every insurance for a voyage there is an implied warranty that the ship is seaworthy at the commencement of the voyage; or if the ship is at sea when the policy is made, then there is an implied warranty that she was seaworthy at the commencement of the risk. A ship is not considered seaworthy unless she is herself tight, sound, and strong; and she must also be properly equipped, provisioned, manned with a sufficient crew, and with a competent master; and she must have a pilot on board if necessary. If she is seaworthy at the commencement of the voyage, the owner has done all he contracted to do, and the underwriters will be liable for any loss caused by the perils insured against, although the ship may afterwards, during the voyage, become unseaworthy in consequence of the negligence of the master or crew. A ship may also become unseaworthy through overloading, or bad stowage of the cargo. Whenever it is usual to employ a pilot at the port from which the ship sails, and whenever it is compulsory to employ a pilot during the voyage, she is considered unseaworthy if there is not a pilot on board, and in this case the underwriters will be absolved from liability, although the ship may have been perfectly seaworthy at the commencement of the voyage. In *time* policies, there is no *implied* warranty that the ship is seaworthy; but the assured must not send the ship to sea in an unseaworthy state, as he is understood to warrant that he will do all he can to guard against the risks insured against.

Deviation.—In a voyage policy the ship must not deviate from the usual and proper course of the voyage without a sufficiently justifying cause (either from necessity, or in pursuance of some well-established custom), or the underwriter will be discharged from liability in respect of any loss which may occur after the commencement of the deviation, for if the ship deviates, then the voyage which she makes is not the same voyage which the underwriter had agreed to insure. It makes no difference whether the risk has been increased by the deviation or not, so long as it has been varied; and if the ship, after deviating, returns again to her proper course, and then sustains an injury, still the underwriter remains discharged from his liability, even if the injury was in no degree attributable to the deviation. He remains liable, however, for all losses which occur up to the time the deviation begins.

A deviation is justifiable if it is necessary for the purpose of doing repairs during the voyage, or to obtain provisions, or if the ship is driven out of her course by stress of weather. It is very doubtful whether it is not an avoidance of a voyage policy for the ship assured to deviate even to assist another vessel in distress.

If, in a voyage policy, it is stated that the ship is to go to her ports of loading, or ports of discharge (if more than one), without mentioning the order in which she is to visit them, then she must visit them in their geographical order, taking the nearest first; but if the name of each of the ports is stated in the policy, then she is bound to visit them in the order in which they are named, unless there is some well-settled and general usage to justify the ship in visiting them in a different order; but the ship is not bound to visit *all* the ports named; she may omit some of them altogether.

If the port of destination is altered, that is not a deviation, but it is an entirely new voyage, and when the voyage is changed (unless it is changed from *necessity*), the liability of the underwriters on a voyage policy ceases altogether from the time when the abandonment of the voyage insured is first finally decided upon. Putting in at an intermediate port, however, is only a deviation.

The voyage must be commenced without any unreasonable delay, or it is considered to be a deviation, and the underwriter will be

discharged from his liability. A delay, however, which is necessary for the purposes of executing repairs, or for completing necessary arrangements for the voyage, or any reasonable delay which is usual in the trade, is justifiable, and will not discharge the underwriter.

THE POLICY.

Before executing a stamped policy, the underwriter usually at the time he accepts the risk, puts his initials to a minute, containing full particulars of the risk he agrees to accept. This slip (which is of course on unstamped paper) is not of itself legally binding on the parties; but if the underwriter has *received the premium*, he may be compelled by a court of equity to carry out his contract by executing a properly stamped policy.

The chief conditions on which the validity of a marine policy of insurance depends are as follows :—

1st. The voyage or risk insured must be described.

2nd. The names of the underwriters, and the sums insured, must be stated.

3rd. The policy must be properly stamped before it is signed, as it cannot be stamped afterwards.

4th. The assured must have an insurable interest in the property insured, and

5th. The name of the person assured, or his agent, must be inserted in the policy.

In construing the meaning of the policy, a greater weight is always given to the written part than to the printed part, as that is the language chosen by the parties themselves to express their intention. In other respects, policies are construed according to the same rules which are observed in the interpretation of other mercantile instruments; thus recourse may be had to the usage of trade for the purpose of explaining the meaning. Technical words are to be taken in their technical sense; for instance, the expression "The Baltic," has been held to include the Gulf of Finland.

The form of marine policy now generally used is much the same

form which has been used for more than a century. Some of the chief practical matters connected with the subject will be found among the following notes appended to each of the clauses of a policy:—

I. NAME OF ASSURED OR HIS AGENT.

"Be it known that, as well as in own Name, as for and in the Name and Names of all and every other Person or Persons to whom the same doth, may, or shall, appertain, in part or in all, doth make assurance and cause, him and them, and every of them, to be insured, lost or not lost."

It is necessary that the name either of the person for whom the insurance is effected, or of the broker or other person who effects it, should be inserted (28 Geo. III., c. 56).^{*} The policy must not be issued in blank, or it will be void. If the name of an agent is inserted, it is not necessary to state that he is only an agent.

Under the words which follow the name of the assured, any person who has a *bona fide* interest in the ship, or goods insured, and for whose benefit the insurance was made, can claim the benefits of the policy, even if not named in it. On the other hand, no one can become entitled to any benefit under the policy unless he has *some* interest in the subject insured.

The words "*lost or not lost*," make the underwriter liable, even if the ship is already lost at the time the policy is made, but if the assured knew at the time of the making of the policy that the ship had already been lost, then he cannot take advantage of the words

^{*} The words of the Act are, "the name or names, or the usual style and firm of dealing of one or more of the persons interested in such assurance, or * * * the name or names, or the usual style of dealing of the consignor or consignors, consignee or consignees, of the goods, merchandizes, effects, or property so to be insured; or the name or names, or the usual style and firm of dealing of the person or persons residing in Great Britain, who shall receive the order for, and effect such policy or policies of assurance; or of the person or persons who shall give the order or direction to the agent or agents immediately employed to negotiate or effect such policy," shall be inserted in the policy.

“lost or not lost.” If these words are not inserted, the underwriter is not liable in case the ship happens to have been lost before the policy was made. The operation of the words “lost or not lost” is sometimes limited by warranting the ship to be well on a certain day. If this is done it is sufficient for her to be well on any part of the day named.

II. THE VOYAGE INSURED.

“*At and from*” [here is to be inserted accurately the description of the voyage insured, if a *voyage* policy; or the limited time the policy is to last must be inserted if it is a *time* policy].

If the policy expresses the insurance to be “*at and from*,” then the ship is insured during her stay at her port of sailing (provided that she does not remain there for an unreasonable length of time), but if it only says “*from*,” then the insurance only begins at the time the voyage is commenced. If the ship is not at the port named when the policy is effected, she must arrive there within a reasonable time in safety, otherwise the underwriter does not become liable under the policy.

If the insurance is for a voyage, and not for a period of time, the voyage must be accurately described in the policy, by stating the beginning and the end of it, otherwise the policy is void, under the Statute 35 Geo. III., c. 36, s. 1. If insured for a *voyage*, the voyage which the ship makes must be the same voyage which is described in the policy, and she must not deviate from the usual course on such voyage.

In a time policy, the insurance is limited by the time named in the policy, without reference to where the ship may be, or whether the voyage is ended or not when the time expires. If insured while she is at sea, the insurance may commence from any past day, if the words “lost or not lost” are inserted in the policy, but the assured must not have had any intelligence of the ship having been lost, or the insurance would be invalid.

A time policy cannot be legally effected for a longer period than twelve calendar months.

If the proximate cause of the loss occurs during the continuance of the policy the underwriters are liable, although the amount of the damage may not be seen or ascertained till after the policy expires; for instance, if the ship receives damage, but is kept afloat till after the expiration of the policy.

If the voyage is illegal (for example, if it is made expressly for the purpose of smuggling, &c.), then it cannot legally be insured.

III. DESCRIPTION OF THE PROPERTY INSURED AND DURATION OF THE RISK.

“ Upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boats, and other Furniture, of and in the good Ship or Vessel called the, whereof is Master, under God, for this present voyage, ... or whosoever else shall go for Master in the said Ship, or by whatsoever Name or Names the said Ship, or the Master thereof, is or shall be named, or called, beginning the said Adventure upon the said Ship at, and shall so continue and endure during her abode there, upon the said Ship, &c., and further, until the said Ship, with all her Ordnance, Tackle, Apparel, &c., shall be arrived at, and until she has moored at anchor twenty-four Hours in good safety.” Or, if for freight or cargo, then

“ Including all risk of Craft to and from the Vessel. Warranted free from capture, seizure, detention, and the consequences of any attempts thereat, or of any hostilities. Upon the Goods and Merchandises in the Good Ship, &c. (as above), beginning the Adventure upon the said Goods and Merchandises from the loading thereof aboard the said Ship at, until the same be discharged and safely landed at”

The ordinary printed form of policy professes to insure the goods and merchandise on board, and also the body and tackle of the ship. If the policy is intended to be on the ship alone, or the freight alone, or cargo alone, &c., these words need not be altered in the body of the policy, but the real matter insured should be *written* in the blank left for that purpose in the policy, or in the margin of the policy, and then that is taken to be the description of the property insured; and

the printed part, which is inconsistent with the written part, becomes of no effect.

The name of the ship should be inserted in the policy, but an error in the name will not vitiate the policy so long as the identity of the ship can be proved, and the underwriter has not been prejudiced.

The name of the master also should be inserted, if it is known ; but if it is erroneously stated or omitted altogether, that will not vitiate the insurance. The master can be changed without affecting the policy, so long as the insurer is not prejudiced by the appointment of a grossly or notoriously incompetent man.

If the insurance is on *freight* it must be described as such in the policy, and it cannot be included in an insurance upon *goods* without being specially named.

If the insurance is on *goods*, and the name of the ship is not known, the policy may state the goods to be on board "any ship or ships;" but, in that case, the assured must state the name of the ship to the underwriter as soon as he ascertains it.

In an insurance on goods, it is quite sufficient if they are described as "goods;" and it is not necessary to describe them further, but if any further description is given, the description must be accurate, or the underwriters will not be bound by the policy. At the end of the voyage the goods must be landed within a reasonable time ; in case there is any undue delay in landing them the underwriter will be discharged from liability. The goods are insured until they reach the shore, and the underwriter is therefore liable if any loss occurs in the lighter, &c., between the ship and the shore.

A deck cargo should be described as such in the policy, otherwise it will not be insured unless it is shown that it is the universal custom in the trade in question to carry a deck cargo. An illegal deck load cannot be insured.

Under the above clause all the ship's stores, provisions, and outfit are included in an insurance on the ship.

The insurance continues until the ship has been moored for twenty-four hours in safety. This has been held to mean mooring in such a way that she may be able, if necessary, to discharge her cargo ; therefore, if she has to go into quarantine, or if she has received such

damage during the voyage that she can only be kept afloat with difficulty, and she afterwards founders, in neither of these cases can she be said to have been "moored in good safety."

IV. LIBERTY TO TOUCH AND STAY.

"And it shall be lawful for the said Ship, &c., in this voyage, to proceed and sail to, and touch and stay at, any Port or Places whatsoever, and for all purposes, with leave to dock and undock, and to go in and out of graving dock, without prejudice to this insurance."

If this clause is not inserted in the policy, the ship is not justified in touching at any port during the voyage; if she does so it is a deviation, and will vitiate the insurance, unless it is the universal custom in the trade for ships to call at that port. If, however, the policy states that the ship may call at one certain port, then she has not the right to call at any other port, even if it is customary to do so.

The blank space in the above clause is intended for the insertion of the particular places (if any) at which the ship is to have liberty to stay. If the ship has liberty to stay at a port she must not stay longer than is reasonably *necessary*, or it will be a "deviation."

V. VALUATION.

"The said Ship, &c., Goods and Merchandises, &c., for so much as concerns the Assured, by Agreement between the Assured and Assurers, in this Policy, are and shall be valued at £. . . ."

If it is intended that the policy shall be a "valued" one, the amount which the parties agree upon as the value of the property insured must be inserted here, and the amount so stated is conclusive between the underwriters and assured unless it is grossly excessive or the property is fraudulently over-valued.

If the amount at which the property is valued is not inserted, the policy is considered an "open" one, and then the amount of the interest of the assured must be proved in a case of a loss. If the

policy is an open one, then, as the object of the insurance is to place the assured in the same position he was in at the commencement of the voyage (and not to place him in the same position he would have been in if the voyage terminated successfully), the value of the interest of the assured is reckoned at the sum the ship or goods were worth when the risk commenced, to which must be added the total cost of insurance (including the premium, commission, and cost of the policy), but without deducting anything for wear and tear, and (if the insurance is on goods) without adding anything for increased value of goods consequent on their carriage. The insurable value of freight in an open policy is the gross amount of the freight *plus* the cost of insurance, but without deducting anything for the cost of earning the freight. The insurable value of goods is their invoice price at the port of loading, *plus* the cost of shipping them, and insurance, &c.

The value stated in the policy is considered to mean the value of the interest which the *assured* has in the property, and not the total value of the property.

VI. THE PERILS INSURED AGAINST.

“Touching the Adventures and Perils which we the Assurers are contented to bear and do take upon us in this Voyage, they are, of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mark and Countermark, Surprisals, Takings at Sea, Arrests, Restraints, and Detainments of all Kings, Princes, and People, of what Nation, Condition, or Quality soever, Barratry of the Master and Mariners, and of all other Perils, Losses, and Misfortunes, that have or shall come to the Hurt, Detriment, or Damage, of the said Goods, and Merchandises, and Ship, &c., or any part thereof.”

The underwriters are only liable for losses caused by the perils named in the policy.

VII. SAVING AND LABOURING CLAUSE.

"And in case of any Loss or Misfortune, it shall be lawful to the Assured, their Factors, Servants and Assigns, to sue, labour, and travel, for, in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandises, and Ship, &c., or any part thereof, without prejudice to this Insurance, to the charges whereof we the Assurers will contribute each one according to the Rate and Quantity of his Sum herein Assured."

The assured is bound to save all he can for the benefit of all concerned, and under this clause the underwriters are bound to repay to the assured any expenses he may incur in endeavouring to save any part of the property. Even if the wreck is abandoned to the underwriters the shipowner can recover from them the amount he expends in endeavouring to save the property, and although the ship may be abandoned, still the owner or captain is bound to save all he can.

VIII. AGREEMENT TO ASSURE, AND RECEIPT FOR PREMIUM.

"And it is agreed by us, the Insurers, that this Writing or Policy of Assurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London: And so we the Assurers are contented, and do hereby promise and bind ourselves, each one for his own Part, our Heirs, Executors, and Goods, to the Assureds, their Executors, Administrators, and Assigns, for the true performance of the Premises, confessing ourselves paid the Consideration due unto us for this Assurance, by the Assured at and after the Rate of"

"In witness whereof we have subscribed for ourselves and co-assurers our Names and Sums Assured in London, the . . . day of, 189 . ."

The policy states that the premium is paid, and, therefore, after the underwriter has debited the broker with the premium and handed over the policy, he cannot recover the amount from the assured.

THE MEMORANDUM.

“N.B.—Corn, Fish, Salt, Fruit, Flour, and Seed, are warranted free from Average, unless general, or the Ship be stranded; Sugar, Tobacco, Hemp, Flax, Hides, and Skins, are warranted free from Average under Five Pounds per Cent.; and all other Goods, also the Ship and Freight, are warranted free from Average under Three Pounds per Cent., unless general, or the Ship be stranded.”

Under this clause the underwriter remains liable for all general average losses, and also for all losses in case the ship is stranded, whether they amount to three (or five) per cent. or not, and whether the damage is caused by the stranding or not, providing the damage occurred after the stranding. To constitute a stranding, it is necessary, not only that the ship should strike the ground, but she must also become stationary there for some short time at least, actually resting on the bottom without being waterborne. If the striking is merely a “touch and go,” or if she drives over rocks, thumping as she goes, that is not enough. In one case where the ship remained aground for only a minute and a half, it was held not to be a stranding. The stranding must be caused by some unexpected accident; a mere intentional stranding in a tidal harbour by the ebbing of the tide, in consequence of which the ship is strained, is not sufficient.

If during the same voyage there are two or more particular average losses, each of which is under three per cent., but which, added together, amount to more than three per cent., then the underwriter is liable.

Many questions have arisen on the construction of the words in this clause. It has been held that the word “*Corn*” includes malt, peas, and beans, but it does not include rice or spices; “*Fish*” includes both fresh and dried fish; “*Salt*” does not include saltpetre (as its meaning is to be taken in its ordinary commercial sense, and not in its chemical sense); “*Flour*” includes barley meal, but not sago (as sago is not a grain); “*Seed*” does not include spices, although they may be in the form of seeds; “*Sugar*” includes

molasses and other saccharine productions whether manufactured from the sugar-cane or not; "*Hemp*" and "*Flax*" do not include jute; and "*Hides*" and "*Skins*" do not include furs.

IX. THE COLLISION CLAUSE.

The following running-down clause is frequently added to the policy:—

Collision Clause recommended by the Committee for managing the affairs of Lloyd's, after communication with the "Liverpool Underwriters' Association," and the "Salvage Association."

"And it is further agreed, that if the ship hereby insured shall come into collision with any other ship or vessel, and the insured shall in consequence thereof become liable to pay, and shall pay, to the persons interested in such other ship or vessel, or in the freight thereof, or in the goods or effects on board thereof, any sum or sums of money not exceeding the value of the ship hereby assured, calculated at the rate of eight pounds per ton on her registered tonnage, we will severally pay the assured such proportion of three-fourths of the sum so paid as our respective subscriptions hereto bear to the value of the ship hereby assured, calculated at the rate of eight pounds per ton, or if the value hereby declared amounts to a larger sum, then to such declared value, and in cases where the liability of the ship has been contested with our consent in writing, we will also pay a like proportion of three-fourth parts of the costs thereby incurred, or paid, provided also, that this clause shall in no case extend to any sum which the insured may become liable to pay, or shall pay, in respect of loss of life or personal injury to individuals for any cause whatsoever."

This clause protects the shipowner to the extent of *three-fourths* of his loss in case of damage to property. It does not protect him *at all* in case he has to pay damages for loss of life or personal injury (for which he is liable to the amount of £15 per ton on the tonnage of his ship), nor for damage to goods carried in his own ship. To obtain complete protection, the shipowner can, for a merely nominal payment, insure against this risk in a "running-down club," sometimes called a "protecting society."

WARRANTIES AND RULES OF MUTUAL INSURANCE ASSOCIATIONS.

Mutual Insurance associations usually annex to their policies a copy of their rules. The provisions of these rules differ so materially in different associations that it is impossible to explain in detail the effect of each rule; it is sufficient to say that the rules when referred to in the policy are to be considered as warranties, and as such must be literally obeyed. Most of the rules contain a clause providing for a reference of all disputes to arbitration; this is binding on the member provided the rule states that the arbitration is to be a condition precedent to any action or suit being brought under the policy.

SIGNATURES OF UNDERWRITERS.

If the policy is underwritten by several individual and separate underwriters, then the names of all the underwriters, or the names of their firms, together with the sums insured, must be inserted at the end of the policy, but if it is an insurance by a company or association, it is sufficient if the total sum insured is named in the policy.

The date of signing is also usually added by each underwriter opposite to his name, as there is no date in any other part of the policy (except the date impressed on it by the Stamp Office).

The policy must be stamped before it is signed, otherwise it is void; it cannot be stamped afterwards.

As a general rule, the policy should not be altered after it is signed; but by the *express consent* of all the parties the words may be altered, so long as the subject-matter of the insurance is not changed; for if that were done a new stamp would be necessary. It has been held that a memorandum waiving a warranty, or correcting a mistake, does not make a new stamp necessary; but in a case where the property insured was altered from "ship and outfit" to "ship and goods," and which was not done to correct a mistake, the policy was void for want of a new stamp.

STAMP DUTIES ON MARINE POLICIES.

Time Policies:—For every £100, or fractional part of £100,
insured for any time not exceeding six months 3*d*.
Ditto, exceeding six months, and not exceeding twelve months 6*d*.
Voyage Policies:—For every £100, or part of £100, insured ... 3*d*.

If an insurance is made for a voyage, and for any period *longer* than twenty-four hours after the ship arrives at her destination, and has moored there in safety, the duty for both a time policy and a voyage policy is chargeable.

If separate interests are insured by one policy, the duty must be paid on each separate interest, instead of on the aggregate amount. Sea policies cannot be stamped after execution (except in the case of stamped policies of mutual assurances which may have *further duties added*, if not underwritten for more than the amount covered by the stamp already thereon). Any person effecting, negotiating, or underwriting an unstamped marine policy, or receiving a premium for the same, or issuing a copy of a policy where there is no stamped policy in existence, is liable to a penalty of £100.

TRANSFER OF POLICIES.

Under an Act passed in July, 1868, marine policies may be transferred, by an indorsement on the policy, in the following words, or by words to the same effect:—

“I, *A. B.*, of, do hereby assign unto *C. D.*, &c., his executors, administrators, and assigns, the within policy of assurance on the ship, freight, and the goods therein carried [*or* on ‘ship,’ or ‘freight,’ or ‘goods,’ as the case may be]. In witness whereof I have hereto set my hand “this day of, 189..”

The assignee of the policy can sue the underwriters in his own name, but the underwriters may avail themselves of any defence which they would have had if the action had been brought by and in the name of the original holder of the policy.

LOSSES UNDER THE POLICY.

A loss to be recoverable by the assured under his policy must be proximately caused by some of the perils insured against by the policy, viz. : "Perils of the seas, men of war, fire, enemies, pirates, "rovers, thieves, jettisons, letters of mark and countermark, surprisals, takings at sea, arrests, restraints, and detainments of all "kings, princes, and people of what nation, condition, or quality "soever, barratry of the master and mariners, and of all other "perils, losses, and misfortunes." If the loss is proximately caused by any of these perils, the underwriter is liable, although it may have been *remotely* caused by the negligence of the captain or crew.

The words "*perils of the sea*" include all sea damage caused by the violence of wind and waves, or by lightning, rocks, sand, &c., but they do not include ordinary wear and tear. Damage done to goods by the vapour or effluvium arising from other goods which have been damaged by sea water is covered by the policy, under the words "perils of the sea." In addition to their liability for damage done at sea, the underwriters of goods are liable for damage done to the goods by salt-water in the ship's hold during the loading of the ship in port.

The phrase "perils of the sea" also includes loss by foundering, or accidental stranding, capture by an enemy, and plunder by wreckers, also in case of collision altogether accidental or caused solely by the fault of the *other* ship.

If slight damage occurs in fine weather that does not ordinarily give rise to a claim on the underwriter, but it is considered "wear and tear." The underwriter is not liable for a loss by a leak which is caused by worms, or which is the result of ordinary decay or wear, or straining, but he is liable if the leak is caused by the vessel being struck by a heavy sea, &c., as that is considered to be a peril of the sea.

Loss by "*fire*," whether the result of accident, or lightning, &c., is covered by the policy, unless it is caused by the bad quality of the goods insured.

Loss by "*pirates*" includes loss by mutiny.

Loss by "*thieves*" means robbery accompanied by violence, and does not include mere theft.

An "*arrest*" signifies the taking of a ship by a friendly government for state purposes (for instance, under an embargo) with the intention of returning her or paying her value.

The word "*people*" in this clause has been held to mean only the governing power of a country, and nations in their collective capacity, and not a mere mob.

"*Barratry*" may be defined to be a damage to a vessel caused by any *wilful* breach of duty by the captain or crew, whether induced by motives of advantage to themselves, malice to the owners, or disregard to those laws which the captain and crew are bound to obey, and which the owners relied on their observing. If the captain, through ignorance or mistake, does wrong, that is not barratry; to constitute barratry the wrong must be done intentionally, and with the knowledge that it is wrong, and it must also be without the consent of the shipowner. If the captain sinks or deserts the ship, or wilfully deviates from the direct course of the voyage, or commits any offence against the revenue laws, as by smuggling, &c., whereby the owner is injured, it is barratry, and the insured is entitled to recover from the underwriter any loss he may sustain thereby. A wilful breach of a blockade by the captain without the knowledge of the shipowner is barratry.

Among other acts considered as barratry are signing false bills of lading, breach of an embargo, trading with an enemy, and wilful neglect on the part of the engineers imperilling the ship.

The words, *all other perils and misfortunes*, in a time policy have been held to cover a loss caused by the vessel being capsized in a graving dock by the violence of the wind and weather.

If a vessel is not heard of for a considerable time it is presumed that she has foundered, and the underwriter is liable to pay the loss.

Loss by *collision* is a loss by perils of the sea, and is therefore covered by the policy unless the loss was caused by the gross (but not wilful) negligence of the captain or crew. The policy, however, does not cover any loss which the shipowner may sustain by having to pay damages to the owner or crew of another ship which has been

run down by his vessel. If the usual "collision clause" is attached to the policy that will protect the shipowner to the extent of *three-fourths* of the sum he may pay for damage to the other *ship and cargo*; but he will be left to bear the remaining one-fourth of damage to ship and cargo himself, together with the whole amount he may have to pay for any loss of life, or personal injuries, caused by the collision. As the shipowner is liable in case of loss of life or personal injuries to an amount equal to £15 per ton on the tonnage of his own ship, this liability is a very serious one, and as it is not covered by the policy, even if the "collision clause" is attached, he should protect himself by joining a mutual protecting association, by which means he can indemnify himself against this risk for a small annual premium.

If the ship be compelled to put into a port to repair damage which is not mere wear and tear, the expenses incurred there in making the ship fit to continue her voyage are recoverable against the underwriters. The underwriter, however, is only liable for such repairs as are absolutely necessary in consequence of the accident, and if, during the progress of the repairs old defects are discovered, these latter must be made good by the shipowner at his own cost.

The underwriter is also liable for all extraordinary expenses necessarily incurred in consequence of the perils named in the policy; for instance, he is liable for all general average contributions and salvage, &c.

Losses on Freight:—In freight policies, if the goods continue to exist in a fit state to be sent on, and the ship is able to continue her voyage, the underwriter is not liable for the loss of freight, even if the goods have been necessarily sold by the captain in consequence of the expense of sending them on; for a loss caused by the act of the captain is not a loss by any of the perils insured against; but if the goods are so much *damaged* that it is not worth while to send them on, then the underwriter is liable. Whenever the earning of freight becomes impossible or hopeless, there is a total loss of freight within the meaning of the policy.

Losses under open policies:—If a *total* loss occurs under an open policy, the insured recovers the full amount insured, unless that sum

exceeds the amount of interest he has in the property. If a *partial* loss occurs, then the percentage which the whole damage bears to the whole insurable value is ascertained, and the assured recovers that same percentage upon the sum insured by the policy; thus, if goods worth £1000 were insured for £800, and they sustain damage to the amount of 50 per cent. of their full value, the assured is entitled to payment of 50 per cent. on the £800, the sum insured on them.

Losses under valued policies :—In case of a *total* loss under a valued policy, the assured is entitled to the amount named in the policy, on showing that he had some interest in the property, without the necessity of proving the amount or value of the interest. In case of an *average* loss under a valued policy, the percentage which the damage bears to the actual value of the property must first be ascertained, and the assured will be entitled to recover that percentage upon the value declared by the policy.

TOTAL LOSS.

Total losses are of two kinds, *absolute* total losses and *constructive* total losses. An actual total loss occurs when the ship (or goods) insured is totally destroyed, or no longer exists in its original denomination or form; for instance, if a ship is wrecked so as to become a mere wreck or a collection of planks, and can no longer be called a ship, or if it is wholly out of the power of the assured to get the ship to her destination, or if the goods are so spoilt as to be practically useless and valueless, that is an actual total loss, and the assured is entitled to be paid the sum insured on the ship or goods, without giving any notice of abandonment.

A *constructive* total loss occurs when the property still exists in its original character and is capable of repair or salvage, but is so much damaged that it is not worth repairing or saving, or when the cost of the repairs or salvage would exceed the value of the property when repaired or saved. In order to entitle the assured to claim on his underwriter for a constructive total loss, he must, within a reasonable time after receiving the news of the loss, give a notice of unconditional

abandonment of the property to the underwriter, so that the underwriter may, if he thinks fit, take the property himself. If he does so, he must pay the assured as for a total loss. If the underwriter does not accept the abandonment (as is usually the case), he is bound at once to inform the assured of his intention not to accept it, and then the assured is left to act on his own judgment. He must do the best he can for all concerned to lessen the loss, and anything which is done after the abandonment is considered to be done by the captain as agent for the underwriters, and for their benefit.

The difference between an actual total loss and a constructive total loss has been well explained as follows :—

“The underwriter engages that the subject of insurance shall arrive in safety at its destined termination. If, in the progress of the voyage, it becomes totally destroyed, or annihilated, or if it be placed, by reason of the perils against which he insures, in such a position that it is *wholly* out of the power of the insured, or of the underwriter, to procure its arrival, he is bound by the very letter of his contract to pay the sum insured. But there are intermediate cases; there may be some peril which renders the ship unnavigable, without any hope of repair, or by which the goods are partly lost, or so damaged that they are not worth the expense of bringing them (or what remains of them) to their destination. In all these, or any similar cases, if a prudent man, not insured, would decline any further expense in prosecuting an adventure, the termination of which will probably never be successfully accomplished, a party insured may, for his own benefit, as well as that of the underwriter, treat the case as one of total loss, and demand the full sum insured. But if he elects to do this, as the thing insured, or a portion of it, still exists, and is vested in him, the very principle of indemnity requires that he should make a cession of all his right to the recovery of it, and that, too, within a reasonable time after he receives the intelligence of the accident, that the underwriter may be entitled to all the benefit of what may still be of any value, and that he may, if he pleases, take measures at his own cost for realising or increasing that value. In all these cases, not only the thing insured, or part of

it, is supposed to exist in specie, but there is a possibility, however remote, of its arriving at its port of destination, or at least of its value being in some way affected by the measures that may be adopted for the recovery or preservation of it. If the assured prefers to take the chance of any advantage that may result to him beyond the value of the thing insured, he is at liberty to do so ; but then he must also abide the risk of the arrival of the thing in such a state as to entitle him to no more than a partial loss. If, in the event, the loss should become absolute, the underwriter is not the less liable on his contract because the assured has used his own exertions to preserve the thing insured, or has postponed his claim till the event of a total loss has become certain, which was uncertain before."

If the owner wishes to claim for a constructive total loss he must give the notice of abandonment to the underwriters as soon as ever he has received certain intelligence of the casualty which renders it improbable that the ship will ultimately be recovered. If the information received by the owner is doubtful, he may wait a reasonable time before giving the notice, to enable him, if possible, to obtain more certain information.

If the notice of abandonment is not given within a proper time, the owner will be considered to have waived his right to abandon, and he cannot afterwards do it ; in one case where the notice was given five days after the receipt of the news, it was held to be too late. When once given, it cannot be withdrawn without the underwriter's consent.

The assured has the right to abandon, and treat the loss as a constructive total loss—1st. If the ship cannot be repaired at any cost where she lies (either in consequence of the want of materials or the captain's inability to obtain money or credit to pay for the repairs at *any* rate of interest), and he is compelled to sell her as she lies, as the best and only thing that can be done. 2nd. If the ship is in such a state that a prudent owner, if on the spot and uninsured, would rather sell her as she lies than attempt to extricate or repair her.

In the latter case, a sale is only justifiable, either when there is no reasonable chance of ever extricating her at all, or when she could

only be extricated or repaired so as to make her a seaworthy ship again at a cost (without deducting one-third new for old) which would exceed her fair marketable value after she is repaired.

In either of these cases the loss amounts to a constructive total loss, which will entitle the assured to abandon and recover for a total loss (unless the policy only insures him against "actual total loss"). It is not absolutely necessary, however, that the captain should sell the ship to enable the owner to claim for a constructive total loss. If the shipowner, on hearing of the disaster, abandons her to the underwriters, still it is the duty of the captain to continue his exertions to save as much as possible, and do the best for all concerned, the same as if no abandonment is made. Anything which he does after the ship is abandoned to the underwriters is considered to be done as agent for them for their benefit.

In abandoning it is sufficient for the shipowner merely to give a written notice to the underwriters of his intention to abandon the ship to them.

The effect of the abandonment is to transfer all the interest of the assured in the ship and salvage to the underwriters from the time of the loss.

If the abandonment is accepted by the underwriters they become liable to pay all future outgoings, and are entitled to the salvage, and all the future earnings of the ship, and if the damage has been caused by a collision, for which another ship is to blame, the underwriters become entitled to receive the damages to be recovered from the other ship.

In writing home to his owners, after any accident, the captain should give full particulars of the damage done to ship and cargo, the exact position of the ship, and the chances of getting it repaired, so that they may be able to decide whether they will give notice of abandonment or not. The letters sent home by the captain will have to be produced to the underwriters, to inform them of the position of the ship, and to enable them to decide what course they should take, and they should therefore be written with care and accuracy.

An abandonment is absolutely necessary in all cases of *constructive*

total loss, but if the loss turns out to be an actual total loss, the claim of the assured is not prejudiced by his having previously unnecessarily given a notice of abandonment.

The assured may, under certain circumstances, become entitled to more than the total amount insured; for instance, if there is an average loss which is afterwards followed by a total loss, or a further sum may be payable to the assured under the clause which authorises him to labour for the defence and recovery of the property insured.

ADJUSTMENT OF LOSSES.

When the amount of a loss has been ascertained and admitted by the underwriter, a memorandum (called an adjustment) is usually indorsed on the policy, stating that the amount of the loss is at a certain rate per cent., and the underwriters append their names or initials, and by the ordinary custom the amount of the loss is usually paid about a month after the adjustment. The adjustment is an admission by the underwriter of his liability to pay the amount named, but it is not absolutely conclusive against him if he can clearly show that he is not liable under the policy. In fact, even after *payment* of a loss, the underwriter can recover the money back, if he can show that after paying he has discovered some fraud, misrepresentation, or concealment by the assured of material facts.

GENERAL AVERAGE.

IN respect of certain losses which happen in time of danger to either the ship or cargo, for the joint benefit of both, the owner of the property so damaged is entitled to be reimbursed for a proportionate part of his loss by a "general average" contribution from the property to save which such loss was incurred.

A loss will not be the subject of a general average contribution unless it is either—

1st. Some *voluntary sacrifice* of part of the ship or cargo to prevent the whole from perishing; or,—

2nd. Some extraordinary *expense* incurred for the common benefit of both ship and cargo.

When the loss occurs, the amount of it is divided among all the property in the adventure which has been benefited by it.

The loss must not be from an ordinary peril of the sea; it must be a deliberate and voluntary sacrifice by the act of man in time of danger, done with the intention of benefiting the whole adventure by preventing a greater anticipated loss or damage: for instance, if goods are *thrown* overboard to lighten a vessel in a storm, it is a general average loss; but if they are only washed overboard by the sea, it is not. Deck loads, however, are only contributed for in general average when it is *usual* in the trade, and legal to carry deck loads. If masts and sails, or cables, are cut away and abandoned for the preservation of ship and cargo, that is a general average loss; but it is not so if they are merely destroyed by a gale, or by carrying too much press of canvas, or if they are merely cut away because they cannot be saved.

If the ship is voluntarily run ashore to avoid foundering, and she is afterwards got off again, and able to perform her voyage, the expense will be a general average loss; or if, in order to avoid impending danger, or to repair the damage done by a storm, the ship has to take refuge in a port to which she is not destined, that will give the ship a claim to a general average contribution for all the

necessary expenses of bringing the ship into and clearing her from the port, including the cost of unloading and reloading the cargo, if necessary. But if she has to put in merely in consequence of contrary winds, &c., then the expense will not come into general average.

A list of several losses, &c., which come under the denomination of general average, will be found at the end of this chapter.

If any salvage services have been rendered, the shipowner is entitled to be reimbursed the amount in general average, as it is incurred for the common safety of the whole adventure.

To constitute a general average loss, there must be :—

1st. A voluntary sacrifice made, or an expense of an extraordinary nature incurred.

2nd. It must be done with the object of preserving the remainder of the adventure. Therefore there cannot be a general average unless the *whole* adventure has been in peril.

3rd. It must be under the pressure of real danger, and as the sole means of escaping destruction.

4th. The loss must be judiciously incurred.

5th. It must be something quite beyond the ordinary duties or expenses of navigation (which would be mere wear and tear, and would fall on the shipowner solely).

6th. The sacrifice must accomplish the object contemplated, at least for some short time. If, notwithstanding the sacrifice, the ship perishes, then the loss is not a general average.

As a general rule general average only arises when something has been ultimately saved; but in cases where some extraordinary *expenses* have been incurred, and money has been spent in the endeavour to save the whole ship and cargo, then the person incurring these expenses is entitled to be repaid by a general average contribution, even if nothing whatever is ultimately saved.

If any loss occurs which will give rise to a general average claim, the particulars should be carefully entered in the log, showing that the sacrifice was necessary, and that it was for the benefit of both ship and cargo.

The average may be adjusted at the vessel's port of discharge

abroad, and if it is correctly adjusted according to the foreign law (although different from the English law), and the amount is paid, that is a final settlement, and the merchant cannot recover from the shipowner any sum which would not have been allowed by the English law.

The captain has a lien on the cargo till all general average claims due from it are paid, and in many cases it is very desirable for him to avail himself of his lien. If he cannot get the average adjusted in time, an agreement to secure payment of it as soon as it can be adjusted should be obtained before the cargo is given up. (A form of agreement for this purpose will be found in the Appendix of Forms).

If any loss or damage has occurred which may give rise to a general average contribution, the captain should note a protest as soon as he arrives at a port where a notary can be found.

LIABILITY OF UNDERWRITERS.

If the person liable to *contribute* towards any general average loss is insured, then his underwriters are liable to pay to him a proportionate part of his loss, in such proportion as the total amount they have insured may bear to the total value of the things insured at the time of sailing. The general practice, however, is for the underwriters to pay the amount in the first instance *direct* to the person who is ultimately to receive it.

It has recently been decided that if property be sacrificed for the general benefit, it is the duty of the underwriters of *that* property to pay the amount of the loss, in the first instance, and then collect the contributions themselves from the persons liable to contribute to the average. The usual practice, however, is for the sufferer to collect the contributions, and then claim only the deficiency from his underwriters.

AMOUNT OF THE LOSS.

The value of the property lost is to be taken at its value at the port at which the average is adjusted. Thus, in the case of goods jettisoned, when the average is adjusted at the end of the voyage, they are to be valued at the price they would have sold for at the end of the voyage, less freight and all necessary expenses; but if the ship puts back to the port she sailed from, and the average is adjusted there, the value to be taken is the cost price, *plus* the amount expended in insuring and putting them on board the ship; if adjusted at some intermediate port at which the ship may put in, the value is taken at the sum the goods would have sold for at that port, but the value of the whole of the goods (both those which had been sacrificed and those which had been saved) must be made on the *same* basis, and with reference to the same time, otherwise inequalities will occur.

All *consequential* damage caused by the making of the sacrifice is to be contributed for; thus, damage done to a ship or cargo on making a jettison, must be contributed for in addition to the goods jettisoned, and the shipowner is entitled to contribution for the full freight which he has lost by the jettison, and the owner of the goods receives the value of the goods.

Damage done to the ship is subject to a deduction of one-third, new for old, but from chain cables a deduction of only one-sixth is made, and anchors and ships' provisions are allowed in full. If, however, the ship is on her *first* voyage, then all repairs to the ship, &c., are also allowed in full. (See York-Antwerp Rules, given on page 143 *et seq.*). *Temporary* repairs also, which may be necessary to enable the ship to proceed on her voyage, are always allowed in full, as they do not ameliorate the ship.

WHAT PROPERTY CONTRIBUTES.

Both the property which is saved from the risk of loss and arrives safely at its destination, and also the property itself which has been lost, contribute equally in the general average, otherwise the owner of the goods sacrificed would be in a better position than the owner of the goods saved.

Passengers cannot be called upon to contribute in respect of their personal safety. Passengers' luggage also is not liable to contribute, as it is not on board for the purpose of traffic, but if it is sacrificed for the general benefit, it must be contributed for.

VALUATION OF PROPERTY TO CONTRIBUTE.

When the contribution is to be made in consequence of voluntary sacrifices, the property saved contributes according to its value in the condition in which it is when it arrives at its destination; but in case of extraordinary expenditure the value to be taken is the value at the time the expenditure was made, because in that case the person incurring the outlay is entitled to be repaid at once, whether the property is ultimately saved or not.

In making the calculation, the real values are to be taken, and not the values stated in the policies of insurance.

The *ship* is to be valued according to the condition she is in when she arrives at her destination. The value is arrived at by taking the original value of the ship when she sailed, and deducting from that the cost of provisions, &c., wear and tear, and any partial losses occurring before the general average loss.

The *freight* is to be valued on similar principles at the amount actually received, less the cost of earning it. If the voyage is abandoned altogether, from *absolute necessity*, then, as the freight is lost, it does not contribute at all, but if the shipowner, as a matter

of *choice*, and not of necessity, abandons the voyage, then the freight contributes.

If the ship is chartered out and home, and she has a general average on her *outward* voyage, then both outward and homeward freight must contribute; but if the accident occurs on her homeward voyage, then only the homeward freight contributes.

If the adjustment is made at the port of sailing, the estimated freight is taken less the estimated cost of earning it; *i.e.*, wages, &c., (but not victualling, as that is supposed to be included in the value of the ship).

If goods are trans-shipped, the value of freight to contribute is the nett amount of freight which has been saved, *viz.*, the old freight, minus the new freight.

The *cargo* is valued on a similar principle, at the sum it is worth on its arrival at its destination, less all necessary expenses for freight, &c. In case of jettison of a part of the cargo, the value of the goods jettisoned is added to the value of the goods which arrive at the end of the voyage. But if the ship has to put back to her port of loading, and the average is to be adjusted there, then the value is taken at the cost price of the goods, and the cost of putting them on board.

EXAMPLE.

The following example of the adjustment of a general average loss is taken from "Abbot on Shipping." For the sake of an illustration, it is supposed that it became necessary in the *Downs* to cut the cable of a ship; that she afterwards struck upon the *Goodwin*, which compelled the master to cut away a mast, and cast overboard part of his cargo, in which operation another part was injured; and that the ship, after being cleared from the sands, was forced to take refuge in a neighbouring harbour, to avoid the further effects of the storm.

<i>Amount of Losses.</i>		<i>Value of Articles to Contribute.</i>	
Goods of A. cast overboard...	£500	Goods of A. cast overboard...	£500
Damage of the goods of B. by the jettison	200	Sound value of the goods of B., deducting freight and charges	1000
Freight of the goods of A. cast overboard	100	Goods of C.	500
Price of a new cable, an- chor, and mast 250	200	„ D.	2000
Deduct allowance new for old 50		„ E.	5000
Expense of bringing the ship off the sands	50	Value of the ship	2000
Pilotage and port duties going into the harbour and out, and commission to the agent who made the dis- bursements	100	Clear freight, deducting wages, victuals, &c.....	800
Expenses there	25		
Adjusting this average.....	4	Total contributory value...	£11800
Postage	1		
Total of losses	£1180		

Then as £11800 : £1180 :: £100 = £10:

That is, each person will lose 10 per cent. upon the value of his interest in the cargo, ship, or freight.

Therefore A. loses.....	£50	being 10 per cent. on	£500
B. „	100	„ „ „	1000
C. „	50	„ „ „	500
D. „	200	„ „ „	2000
E. „	500	„ „ „	5000
The Owners lose	280	„ „ „	2800

Total £1180, the exact amount of the losses.

Upon this calculation, the owners are to lose £280; but they are to receive from the contribution £380 to make good their

disbursements, and £100 more for the freight of the goods thrown overboard, or £480 minus £280.

They therefore are actually to receive	£200
A. is to contribute £50, but has lost £500; therefore A. is to receive	450
B. is to contribute £100, but has lost £200; therefore B. is to receive	100

Total to be actually received £750

On the other hand, C., D., and E. have lost nothing, and are to pay as before, viz.,	C. £50 D. 200 E. 500
--	--

Total to be actually paid £750

which is exactly equal to the total to be actually received, and must be paid by and to each person in rateable proportion, to be ascertained by another calculation, with which it is unnecessary to trouble the reader.

LIST OF LOSSES OF FREQUENT OCCURRENCE WHICH ARE CONTRIBUTED FOR.

The following is a list of some losses and expenses of frequent occurrence which are contributed for in general average :—

I. *Cargo thrown overboard (commonly called Jettison).*

Goods voluntarily thrown overboard to save ship, freight, and cargo (the heaviest goods should be chosen if possible).

Freight of the goods thrown overboard is to be made good to the shipowner.

Damage done to ship or cargo in throwing the goods overboard (for example, injury to goods removed to get at the cargo, or by cutting away the ship's sides, &c., if necessary).

Expenses of recovering any goods thrown overboard.

Cargo lost from boats into which it had been put to save the ship from foundering (boats also if lost are in this case contributed for).

II. *Cutting away ship's masts, yards, spars, gear, &c.*

Damage done by necessarily and voluntarily cutting away masts, rigging, sails, &c., to relieve the ship in a storm or if she is thrown on her beam ends, &c.

Damage done to ship's deck or bulwarks by the falling of masts, which have been cut away to preserve ship and cargo. (But damage done by the masts *after* they have fallen into the water is not contributed for).

Damage done to a ship or cargo by beaching or scuttling her, or by cutting parts of her away to extinguish a fire.

Anchors and cables slipped or lost to avoid collision, and expenses of recovering them (but if the ship voluntarily goes into an *improper* anchorage, and has in consequence to slip her anchor, then it is *not* contributed for).

Anchors and cables lost in endeavouring to prevent the ship from driving on shore.

Expenses of carriage and shipping, &c., of *new* anchors and cables when the old ones are lost from *any* cause, and also the expense of carriage, salvage, and shipping the old anchors and cables if recovered after being lost from any cause.

III. *Ships' stores, &c., used for Extraordinary Purposes.*

All damage done to ships' ropes, spars, sails, boats, &c., by their being used for some *extraordinary* purpose different from their ordinary use, for the benefit of the ship and cargo. Also cargo, ships' materials, and stores, burnt for fuel for the common safety.

Ships' stores or materials taken from sea stock, and used in repairing the ship when in distress; for example, spars used for erecting jury-masts, or timber cut up to construct a rudder, or cables cut for any extraordinary purpose unconnected with the anchor, are contributed for in general average.

Damage done to boats when not used for ordinary purposes; for example, damage sustained while carrying out anchors, &c., or in heaving a ship off when stranded, or in taking cargo to the shore to lighten the ship and save her from foundering.

Damage done to sails when hoisted to get a stranded ship off the ground, or when the sails are used to stop a leak.

IV. Assistance and Salvage, and expenses while stranded.

Expense of obtaining assistance out from the shore.

Salvage and money paid for assistance when the ship is in distress.

Expenses incurred in getting the ship off the ground when stranded.

Expense of watching the ship when stranded.

Fees paid brokers and Lloyd's agents when ship is ashore.

Expense of raising the ship (if she is submerged) in order to get out the cargo.

Expense of discharging the cargo.

V. Expenses in port of distress while ship is under average.

Expenses incurred by the ship having to put into a port in consequence of some *accident* not attributable to the defects of the ship.

When a ship puts into a port under average, the following expenses are contributed for :—

Towage or expenses of obtaining assistance if necessary.

Expense of assistance for pumping the ship.

Pilotage inwards.

Harbour dues.

Expense of removing the ship to place of discharge.

Hire of tackle and labour in mooring the ship.

Custom House charges.

Cost of a general survey before discharging cargo.

Cost of keeping the ship free from water while in port.

Cost of telegrams.

Hire of labourers and of tackle, bags, &c., and lighters for discharging the cargo, if necessary, to repair the ship, with cart hire from the shore to the warehouse, and hire of labourers in warehousing.*

* But if the cargo is unloaded merely for the sake of preserving the cargo itself when the ship could be repaired without unloading, then the cost of unloading, &c., falls on the cargo.

Refuge dues.

Fees to receiver of Admiralty droits.

Cost of preparing bottomry bond, and premium on the loan.

Fees paid to notary for protest.

Commission and agency to broker in making the disbursements.

Repairs, if they are necessary to remedy some voluntary sacrifice
which is a general average loss, and which repairs are absolutely
necessary to make the ship seaworthy.*

And all other expenses inseparably connected with the putting
into and sailing from the port.

VI. *Cost of raising money to pay for repairs or expenses.*

Cost of preparing bottomry bond, and premium on the loan.

Loss caused by the sale of any part of the cargo when necessary
for the purpose of raising money.

VII. *The cost of adjusting the average.*

This is always allowed for.

YORK-ANTWERP RULES,

AS REVISED AT LIVERPOOL, IN 1890.

RULE I.—*Jettison of Deck Cargo.*

No jettison of deck cargo shall be made good as general average. Every structure not built in with the frame of the vessel shall be considered to be a part of the deck of the vessel.

RULE II.—*Damage by Jettison and Sacrifice for the Common Safety.*

Damage done to a ship and cargo, or either of them, by or in consequence of a sacrifice made for the common safety, and by water which goes down a ship's hatches opened, or other opening made, for the purpose of making a jettison for the common safety, shall be made good as general average.

* If the damage to be repaired is itself a general average loss, then Lord Tenterden, and also Mr. Arnold, considered that the wages of the crew while the ship is in port under average should be contributed for in general average; but the practice of average adjusters is not to allow the wages.

RULE III.—*Extinguishing Fire on Shipboard.*

Damage done to a ship and cargo, or either of them, by water or otherwise, including damage by beaching or scuttling a burning ship, in extinguishing a fire on board the ship, shall be made good as general average; except that no compensation shall be made for damage to such portions of the ship and bulk cargo, or to such separate packages of cargo, as have been on fire.

RULE IV.—*Cutting away Wreck.*

Loss or damage caused by cutting away the wreck or remains of spars or of other things which have previously been carried away by sea-peril shall not be made good as general average.

RULE V.—*Voluntary Stranding.*

When a ship is intentionally run on shore and the circumstances are such that if that course were not adopted she would inevitably sink or drive on shore or on rocks, no loss or damage caused to the ship, cargo, and freight, or any of them, by such intentional running on shore shall be made good as general average. But in all other cases where a ship is intentionally run on shore for the common safety, the consequent loss or damage shall be allowed as general average.

RULE VI.—*Carrying Press of Sail. Damage to or Loss of Sails.*

Damage to or loss of sails and spars, or either of them, caused by forcing a ship off the ground or by driving her higher up the ground, for the common safety, shall be made good as general average; but where a ship is afloat, no loss or damage caused to the ship, cargo, and freight, or any of them, by carrying a press of sail shall be made good as general average.

RULE VII.—*Damage to Engines in Refloating a Ship.*

Damage caused to machinery and boilers of a ship, which is ashore and in a position of peril, in endeavouring to refloat, shall be allowed in general average when shown to have arisen from an actual intention to float the ship for the common safety at the risk of such damage.

RULE VIII.—*Expenses Lightening a Ship when Ashore and Consequent Damage.*

When a ship is ashore and, in order to float her, cargo, bunker coals, and ship's stores, or any of them, are discharged, the extra cost of lightening, lighter hire, and re-shipping (if incurred) and the loss or damage sustained thereby, shall be admitted as general average.

RULE IX.—*Cargo, Ship's Materials, and Stores Burnt for Fuel.*

Cargo, ship's materials, and stores, or any of them, necessarily burnt for fuel for the common safety at a time of peril shall be admitted as general average when and only when an ample supply of fuel had been provided:

but the estimated quantity of coals that would have been consumed, calculated at the price current at the ship's last port of departure at the date of her leaving, shall be charged to the shipowner and credited to the general average.

RULE X.—*Expenses at Port of Refuge, &c.*

(a.) When a ship shall have entered a port or place of refuge, or shall have returned to her port or place of loading in consequence of accident, sacrifice, or other extraordinary circumstances, which render that necessary for the common safety, the expenses of entering such port or place shall be admitted as general average; and when she shall have sailed thence, with her original cargo, or a part of it, the corresponding expenses of leaving such port or place, consequent upon such entry or return, shall likewise be admitted as general average.

(b.) The cost of discharging cargo from a ship, whether at a port or place of loading, call, or refuge, shall be admitted as general average, when the discharge was necessary for the common safety or to enable damage to the ship caused by sacrifice or accident during the voyage, to be repaired, if the repairs were necessary for the safe prosecution of the voyage.

(c.) Whenever the cost of discharging cargo from a ship is admissible as general average, the cost of reloading and storing such cargo on board the said ship together with all storage charges on such cargo shall likewise be so admitted. But when the ship is condemned, or does not proceed on her original voyage, no storage expenses incurred after the date of the ship's condemnation or of the abandonment of the voyage, shall be admitted as general average.

(d.) If a ship under average be in a port or place at which it is practicable to repair her, so as to enable her to carry on the whole cargo, and if, in order to save expenses, either she is towed thence to some other port or place of repair or to her destination, or the cargo or a portion of it is transhipped by another ship, or otherwise forwarded, then the extra cost of such towage, transshipment, and forwarding, or any of them (up to the amount of the extra expense saved) shall be payable by the several parties to the adventure in proportion to the extraordinary expense saved.

RULE XI.—*Wages and Maintenance of Crew in Port of Refuge, &c.*

When a ship shall have entered or been detained in any port or place under the circumstances, or for the purposes of the repairs mentioned in Rule X., the wages payable to the master, officers, and crew, together with the cost of maintenance of the same, during the extra period of detention in such port or place until the ship shall or should have been made ready to proceed upon her voyage, shall be admitted as general average. But when

the ship is condemned or does not proceed on her original voyage, the wages and maintenance of the masters, officers, and crew, incurred after the date of the ship's condemnation or of the abandonment of the voyage, shall not be admitted as general average.

RULE XII.—*Damage to Cargo in Discharging, &c.*

Damage done to or loss of cargo necessarily caused in the act of discharging, storing, reloading, and stowing, shall be made good as general average, when and only when the cost of those measures respectively is admitted as general average.

RULE XIII.—*Deductions from Cost of Repairs.*

In adjusting claims for general average, repairs to be allowed in general average shall be subject to the following deductions in respect of "new for old," viz. :—

In the case of iron or steel ships from date of original register to the date of accident—

(A) Up to 1 year old :—

All repairs to be allowed in full, except painting or coating of bottom, from which one-third is to be deducted.

(B) Between 1 and 3 years :—

One-third to be deducted off repairs to and renewal of woodwork of hull, masts, and spars, furniture, upholstery, crockery, metal, and glassware; also sails, rigging, ropes, sheets, and hawsers (other than wire and chain), awnings, covers, and painting; one-sixth to be deducted off wire rigging, wire ropes, and wire hawsers, chain cables and chains, donkey engines, steam winches and connections, steam cranes and connections; other repairs in full.

(C) Between 3 and 6 years :—

Deductions as above under clause B, except that one-sixth be deducted off ironwork of masts and spars, machinery (inclusive of boilers and their mountings).

(D) Between 6 and 10 years :—

Deductions as above under clause C, except that one-third be deducted off ironwork of masts and spars, repairs to and renewal of all machinery (inclusive of boilers and their mountings), and all hawsers, ropes, sheets, and rigging.

(E) Between 10 and 15 years :—

One-third to be deducted off all repairs and renewals, except ironwork of hull and cementing and chain cables, from which one-sixth to be deducted; anchors to be allowed in full.

(F) Over 15 years :—

One-third to be deducted off all repairs and renewals; anchors to be allowed in full; one-sixth to be deducted off chain cables.

(g) Generally :—

The deductions (except as to provisions and stores, machinery and boilers) to be regulated by the age of the ship, and not the age of the particular part of her to which they apply; no painting bottom to be allowed if the bottom has not been painted within six months previous to the date of accident; no deduction to be made in respect of old material, which is repaired without being replaced by new, and provisions and stores which have not been in use.

In the case of wooden or composite ships :—

When a ship is under one year old from date of original register, at the time of accident, no deduction new for old shall be made. After that period a deduction of one-third shall be made, with the following exceptions :—

Anchors shall be allowed in full; chain cables shall be subject to a deduction of one-sixth only.

No deduction shall be made in respect of provisions and stores which had not been in use.

Metal sheathing shall be dealt with by allowing in full the cost of a weight equal to the gross weight of metal sheathing stripped off, minus the proceeds of the old metal. Nails, felt, and labour metalling are subject to a deduction of one-third.

In the case of ships generally :—

In the case of all ships, the expense of straightening bent ironwork, including the labour of taking out and replacing it, shall be allowed in full.

Graving dock dues, including expenses of removals, cartage, use of shears, stages, and graving dock materials shall be allowed in full.

RULE XIV.—*Temporary Repairs.*

No deductions “new for old” shall be made from the cost of temporary repairs of damage allowable as general average.

RULE XV.—*Loss of Freight.*

Loss of freight arising from damage to or loss of cargo shall be made good as general average, either when caused by a general average act, or when the damage to or loss of cargo is so made good.

RULE XVI.—*Amount to be Made Good for Cargo Lost or Damaged by Sacrifice.*

The amount to be made good as general average for damage or loss of goods sacrificed shall be the loss which the owner of the goods has sustained thereby, based on the market values at the date of the arrival of the vessel or at the termination of the adventure.

RULE XVII.—Contributory Values.

The contribution to a general average shall be made upon the actual values of the property at the termination of the adventure, to which shall be added the amount made good as general average for property sacrificed; deduction being made from the shipowner's freight and passage money at risk of such port charges and crew's wages as would not have been incurred had the ship and cargo been totally lost at the date of the general average act or sacrifice, and have not been allowed as general average; deduction being also made from the value of the property of all charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average. Passengers' luggage and personal effects, not shipped under bill of lading, shall not contribute to general average.

RULE XVIII.—Adjustment.

Except as provided in the foregoing rules, the adjustment shall be drawn up in accordance with the law and practice that would have governed the adjustment had the contract of affreightment not contained a clause to pay general average according to these rules.

PARTICULAR AVERAGE.

“PARTICULAR average” is not a very accurate expression. What is called a *particular average* loss is, in fact, no average at all, but merely a particular loss to be borne by one particular interest ; the expression is, however, universally adopted in referring to ordinary partial losses, accidentally caused by the perils insured against, either to the ship alone, or the cargo alone, or to the freight alone. Some extraordinary expenses (beyond mere wear and tear) not incurred for the joint benefit of ship, freight, and cargo, also come within the description of particular average.

As it is not a loss or expense incurred for the *general* benefit, it is to be borne solely by the property on which it happens to fall ; but the sufferer, if insured, is entitled to have his loss made good by his own underwriters, if the loss comes within the terms of his policy.

PARTICULAR AVERAGE ON SHIP.

All partial damage to the ship, caused by the direct and violent action of the perils insured against, are particular average on the *ship*, and as such are chargeable against the underwriters, if the ship is insured. If the ship at the commencement of the voyage was seaworthy, and had a competent captain and a sufficient crew, then the underwriters are liable to make good any loss, of which the *immediate* cause was one of the perils insured against, even if the negligence of the captain or crew of the ship was the original or remote cause of the loss.

The following losses and expenses are recoverable as particular average on ship :—

Damage done by the accidental striking or stranding of the ship on a rock, shore, or wreck, or other solid body.

Damage arising from a leak, caused by the ship having struck the ground, or by being struck by a sea (but if the leak is caused by the ordinary straining of the ship, then it is only wear and tear).

Masts, spars, cables, anchors, &c., carried away or lost by a storm, or by the wind, or in a heavy, cross-rolling sea, or by other perils

insured against (but the cost of *shipping* fresh anchors is general average, as before stated). If spars and rigging are damaged or broken by a storm, and are afterwards cut away and cast overboard because they encumber the deck, or because they cannot be saved, that is a particular average loss against the ship; but if spars or rigging are broken by the wind, and it becomes necessary to cut them away in order to *save the ship*, then the value of them, in the state they were in after the accident is to be contributed for in general average; and the residue is particular average.

Loss of sails, or damage done to them by a sudden squall, which does not allow time for them to be furled.

Sails burst by heavy seas.

Damage done by collision.

Loss of stores which are always carried on deck (such as water casks, &c.).

Boats washed overboard, if they were properly fastened and not carried on the stern davits.

Expense of necessary repairs to the ship at a port of distress.

Damage done to the ship, or to her masts, sails, &c., by standing out to sea in stormy weather to avoid being driven ashore.

Damage done to the ship while defending herself against an enemy.

In allowing for repairs a deduction of one-third new for old is made. The one-third deduction is made from the cost of the labour as well as from the cost of the materials.

The following are exceptions to this rule:—

Anchors are always allowed in full, as they are considered not to deteriorate by use.

Only one-sixth is deducted off chain cables.

Copper sheathing is allowed for according to the time it has been on the ship: weight for weight is generally allowed. If any copper is taken off the vessel when abroad, the captain should be very careful to have the weight certified by the proper person, and, if possible, he should get the certificate attested by the consul or a notary.

If the ship is on her first voyage, then all repairs, &c., are allowed in full.

LOSSES WHICH ARE *not* PARTICULAR AVERAGE ON SHIP.

The following losses and expenses are not particular average, but they fall on the shipowner solely, and are not recoverable by him from his underwriters :—

Ship's stores which were not kept in proper and secure places, and which have been thrown overboard or lost.

Boats lost when hanging to the stern davits.

Goods thrown overboard in consequence of the ship having been overladen.

Expenses of putting into port in consequence of contrary winds, or to obtain provisions.

Delay caused by Quarantine.

Loss by theft.

Wages and provisions of the crew while the ship is under average. (But if assistance is obtained from labourers or salvors, &c., then any amount properly paid to them is general average. It may, therefore, be advisable for the captain, in *some* cases, to pay off his crew, and obtain other assistance). Wages, however, are allowed under the policies and rules of some mutual insurance clubs.

Wear and tear, and natural decay of the ship, such as :—

Damage to cables by chafing against rocks.

Planks started without any violent cause.

Straining of the ship.

Damage to masts, yards, or sails, by carrying too much canvas.

Damage done by rats and worms.

Damage caused by bad stowage.

Damage to goods, in shipping or unshipping, caused by the neglect of the captain or crew, or defects of the tackle.

Damage caused by the ship springing a leak in consequence of ordinary straining or her own inherent defects (but if the leak is caused by the striking of a heavy sea, or by stranding, it is a particular average).

PARTICULAR AVERAGE ON FREIGHT.

The following losses and expenses are particular average on freight :—

Removing the ship to the place of reloading when she is under average.

Cost of measuring or weighing the cargo on reloading.

Cart hire from the warehouse to the lighters.

Hire of lighters from the shore to the ship.

Hire of labourers, &c., in re-shipping the cargo.

Use of bags, &c., in re-shipping.

Hire of stevedores, and all cost of stowing.*

Hire of assistance in leaving the port.

Pilotage and towage outwards.

PARTICULAR AVERAGE ON CARGO.

The following expenses, &c., are special charges against the cargo, and if paid by the shipowner he is entitled to be repaid in full by the owner of the cargo, who, if insured, recovers them from his own underwriters :—

Survey of cargo while ship is under average.

Cost of unloading the cargo when it is unloaded merely to preserve the cargo itself, and not simply to allow the ship to be repaired.

Warehouse rent of cargo landed while the ship is under average, and premium of insurance against fire while it is out of the ship.

Cart hire to a kiln to have the cargo dried if necessary, when the ship is under average.

Cost of drying the cargo if necessary.

Cart hire from the kiln to the warehouse.

Hire of labourers to keep in order, or repack, the cargo.

* If the ship has had to put into port to unload her cargo, *solely in consequence of some defect in the cargo itself*, for instance, by the heating of a cargo of grain, then all expenses connected with the re-shipping of the cargo, &c., are chargeable against the cargo.

Cost of repairing old packing cases or bags, and of obtaining new ones if required.

Damage done in shipping or landing the cargo, unless the damage is attributable to the negligence of the captain or crew, or the insufficiency of the ship's tackle.

All partial damage to the goods at sea, and which is caused by the perils insured against, is chargeable against the cargo and the underwriters of the cargo; for example, if damage is done by fire, or by the ship springing a leak during a storm.

Expenses connected with the sale of goods damaged by the sea, when they are necessarily sold to prevent further deterioration.

PAPERS TO BE SENT TO THE AVERAGE ADJUSTER.

Whenever a general average loss, or a particular average loss occurs, the captain should be careful to obtain the following documents, to enable his owners to get the average adjusted:—

- 1st. The survey of the ship and cargo, which is the most important document, and should be carefully prepared.
- 2nd. The extended protest, which should be particularly and carefully drawn.
- 3rd. All vouchers for payments made while under average, and if possible they should be certified by the consul or a notary, or some other public officer.
- 4th. Certificate of seaworthiness of the ship after the cargo is re-shipped.

In addition to the before-named documents, the following papers (or such of them as may be necessary), should be supplied by the *shipowner*:—

- Freight account, deducting wages and port charges.
- Valuation of the ship in its damaged state.
- Valuation of the cargo in its damaged state.
- Original policies of insurance of ship and freight (if insured).

INQUIRIES INTO SHIPPING CASUALTIES.

THE numerous investigations ordered by the Board of Trade into casualties to the merchant shipping of the United Kingdom (all now included under the comprehensive title of "shipping casualties") have become so important to shipowners and officers as to demand a special chapter for their consideration in a work which claims to be a Manual of Shipping Law.

In dealing with this subject the questions naturally arise :—How are these Courts of Inquiry constituted, and when are they held? What have they the power to do? and what is the mode of procedure? To answer these questions as concisely as is compatible with clearness, and to make some general remarks on the subject, is the object of this chapter.

The law relating to the subject is now embraced in Part VI. of the Merchant Shipping Act, 1894, Sections 464—491.

CONSTITUTION OF THE COURT.

By Section 465 of the Merchant Shipping Act, 1894, power is given to inspecting officers of coastguard, chief officers of customs, and others, to make a preliminary inquiry where (on or near the coasts of the United Kingdom) any ship has been lost, abandoned, stranded, or materially damaged, or any ship has caused loss or material damage to any other ship, or loss of life has ensued in consequence of any casualty happening to or on board any ship; and also where (elsewhere than on or near the coasts of the United Kingdom) any such loss, abandonment, damage, or casualty has happened, and any witness thereof is found in the United Kingdom. Or whenever any British ship has been lost or is supposed to have been lost, and any evidence can be obtained in the United Kingdom as to the circumstances under which she proceeded to sea, or was last heard of.

Under Section 729, the person holding such preliminary inquiry is

given power to inspect any ship or premises, summon and examine witnesses, enforce production of books and documents, and to administer oaths to and require and take declarations of witnesses.

By Section 466, if it appear to the person authorised to make the preliminary inquiry that the case is of sufficient importance to demand a formal investigation, or if the Board of Trade so direct, he shall apply to a court of summary jurisdiction to hear the case, which they shall do with all their usual powers of summoning parties and compelling the attendance of witnesses. At the conclusion of the case the Court investigating shall send a report to the Board of Trade, containing a full statement of the case and its opinion thereon, accompanied by such report of or extracts from the evidence, and such observations as it may think fit.

It may also be mentioned here that by Section 422, where a British ship comes into collision with another ship, and the captain or person in charge fails without reasonable cause to stand by and render assistance, or neglects to give to the other ship information of his ship's name and destination, an inquiry into his conduct may be held, and his certificate, if he holds such, may be cancelled or suspended.

Under Section 477, power is given to the Lord Chancellor of Great Britain to appoint three Wreck Commissioners for the United Kingdom, to inquire into shipping casualties at the request of the Board of Trade, with the same powers as a court of summary jurisdiction (Section 466).

At all such investigations the Court is assisted by one or more assessors of nautical, engineering, or other special skill or knowledge, appointed by the Secretary of State out of an approved list of such persons kept by the Board of Trade and approved by the Secretary of State. On the list of nautical assessors there are about equal proportions of naval officers and captains of the mercantile marine.

When the investigation is likely to involve any question as to the cancellation or suspension of the certificate of any master, mate, or engineer, the Court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service. Each assessor must sign the report made to the Board of

Trade on the conclusion of the investigation, or give his reason for declining so to do.

Although the number of the assessors on an inquiry is not absolutely fixed by statute, the number usually appointed is two.

By Section 476 it is provided that in places where there is a local marine board, and a stipendiary magistrate is a member of it, formal inquiries into shipping casualties held there shall, if possible, take place before him. The stipendiary is remunerated for his services out of the Mercantile Marine Fund.

It may be remarked that where there is a stipendiary magistrate in any seaport it seems to be the practice of the Board of Trade to appoint the investigation of all shipping casualties arising or coming within the neighbourhood or district to be taken before such stipendiary magistrate in the town where he presides. Although under Section 466, sub-section 121, the Board of Trade has undoubted authority to authorise the holding of inquiries where it thinks fit, it is often felt to be unfair that inquiries which naturally arise, or come within the district of a large seaport, should be removed often to a considerable distance, and at great inconvenience, to some other seaport of perhaps equal or less importance.

It may be further remarked that it seems anomalous and undesirable that the Board of Trade, which in the great majority of these inquiries before stipendiary magistrates appears almost as a prosecutor, should not only have absolute discretion to select and appoint the judge, but also to sanction his special remuneration. These provisions do not tend to foster confidence in the independence of local Courts of Inquiry.

Inquiries into shipping casualties can, therefore, under the powers above fully detailed, be held either before a wreck commissioner, or a court of summary jurisdiction, or a stipendiary magistrate, all assisted by one or more assessors of nautical, engineering, or other special skill or knowledge, according to the nature of the case.

THE POWERS OF COURTS OF INQUIRY.

It cannot be too clearly understood that the primary object of these investigations is to *inquire* into the cause or reason of the casualty, and not to pronounce judgment on some one. For this purpose the Courts of Inquiry have vested in them ample powers to summon any witness before them, obtain any evidence, and by Rules 3 to 5, framed pursuant to the Merchant Shipping Act, to make the owners of vessels, and *any other persons* who have any interest therein, or who appear to have in any way contributed to the casualty, parties to the proceedings, or "defendants."

Every formal investigation shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

Under Section 470 of the Merchant Shipping Act, 1894, the Court has power, if the investigation shows that the loss or abandonment of, or serious damage to any ship, or loss of life had been caused by the wrongful act or default of any master, mate, or engineer, to cancel or suspend the certificate of such master, mate, or engineer. The certificates can also be dealt with if the Court find the owners thereof to be incompetent, or guilty of any gross act of misconduct, drunkenness, or tyranny, or that in case of collision they have failed to render assistance or give information as provided by Section 422 of the Act.

No certificate can be cancelled or suspended unless a copy of the report, or a statement of the case upon which the investigation is ordered, has been furnished to the owner of the certificate prior to the investigation, nor unless one assessor, at least, expresses his concurrence in the finding of the Court.

The Board of Trade may re-issue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant in place thereof a new certificate of the same or any lower grade (Section 474).

Every officer whose certificate is cancelled or suspended must deliver it up as directed, under a penalty of £50.

By Sections 466 and 471, the Courts of Inquiry have power to make such order with respect to the costs of investigation, or any portion thereof, against any person before the Court, as they may deem just.

Courts of Inquiry, therefore, have power to order the cancellation or suspension of the certificates of masters, mates, and engineers, and also to order payment as against them, or *any other parties before the Court*, of all or a part of the costs and expenses of the investigation. This latter power, though not often exercised, is one which might operate practically as a heavy penalty, the costs and expenses of an inquiry being usually very heavy.

The Courts have the further duty of reporting on the case to the Board of Trade, and making such remarks thereon as they deem necessary. The action taken by the Board upon such reports is sometimes of a very serious nature to officers, owners, and others, which makes it additionally desirable for all persons in any way interested in a casualty to be properly represented at the inquiry.

Several points have arisen with reference to the power of the Courts holding investigations into shipping casualties, two of which are worthy of mention. The first is: What is such a "material damage" as will give the Courts power under Sections 464 and 465 of the Merchant Shipping Act, 1894, to inquire? Several cases have been decided bearing on this point, and the principle which seems to be deducible from them is as follows:—If the damage sustained causes such injury to the hull, machinery, or equipment of the vessel as will necessitate a large outlay of money in repairs (having regard to the value and condition of the vessel at the time), although such damage may not under the circumstances have been of such a nature as to endanger the safety of the ship or the crew, it is a "material damage." Again, if the damage to the hull or any part of the machinery or equipment of the ship is of such a nature as, under the circumstances of the case, to make her unseaworthy, and so endanger the safety of the vessel or crew, although the repairing of such damage may involve but a comparatively small pecuniary outlay, it is a "material damage." The same force it is believed must be given to the words "serious damage" used in the 470th Section of the same Act.

The second point is this: Have the Courts power to cancel or suspend certificates on inquiries where no "serious damage" has resulted from the casualty, having regard to Section 470 of the Merchant Shipping Act, 1894? In the case of the S.S. "Ayton," Mr. Wreck Commissioner Rothery decided that he had this power, and accordingly suspended the master's certificate. On appeal to the Court of Queen's Bench, however, it was decided that the wreck commissioner had acted beyond his jurisdiction, and his decision or judgment was quashed.

PROCEDURE.

It now becomes necessary to consider what is the procedure adopted at inquiries into shipping casualties, and a few prefatory remarks are requisite to explain the present position of affairs in this respect.

By Section 479 of the Merchant Shipping Act, 1894, the Lord Chancellor has power to make rules to regulate the procedure on inquiries, or on the re-hearing or appeal from such inquiries, and to repeal, alter, or vary such rules, or to substitute others therefor. Shortly after the passing of the Act of 1876, the Lord Chancellor, in pursuance of such power, framed certain rules, which have since been materially altered and modified. The procedure under the Shipping Casualties Rules, 1895, may be summarised as follows:—

When the Board of Trade, upon a consideration of the statements taken and reports made by their receivers of wreck or other officials, are of opinion that a formal investigation should take place, they notify to the wreck commissioner, or other authority, their desire that such inquiry should be held before him or them, and shall inform the Secretary of State when assessors are required.

When a formal investigation has been ordered, the Board of Trade may cause a formal notice, to be called a *Notice of Investigation*, to be served upon the owner, master, and officers of the ship, as well as upon any person who in their opinion ought to be served. This notice shall contain a statement of the questions which the Board of Trade intends to raise on the hearing of the investigation, and it may be altered or amended by a subsequent notice.

As in the large majority of inquiries the Board of Trade makes serious charges against the master or officers on board the ship at the time of the casualty happening, it seems only just that they should have due notice of the holding of the inquiry, as a matter of right, and not of favour.

When the exact time and place of the inquiry have been fixed, the Court before whom the inquiry is to be held issues witness summonses, and causes them to be served in any part of the United Kingdom upon such persons as it is intended to examine on the inquiry. The consequences of disobedience to such a summons are serious, and similar to those involved in disobedience to a subpoena issued out of the High Court of Justice. The wreck commissioner may issue subpoenas for the attendance of witnesses either before himself, or before any other judge, which may be served and have effect in any part of the United Kingdom.

By Rules 4 and 5, the following are the only parties to investigations, viz. : the Board of Trade, and any certificated officer or other person upon whom a notice of investigation has been served ; also any person who shows that he has an interest in the investigation shall have a right to appear, and any other person, by permission of the judge, may appear, and they thereupon become parties to the proceedings.

The inquiry on the day appointed is proceeded with whether the parties who have been served with the notice of holding the investigation are present or not. The Board of Trade is represented on these inquiries either by a barrister or a solicitor, who usually opens the proceedings by giving a brief outline of the circumstances of the casualty, to enable the Court to comprehend the scope and nature of the intended inquiry. There seems to be no express authority for this course of procedure ; but so long as the persons representing the Board of Trade content themselves with an impartial general statement of facts, without any argument or allegation, no reasonable objection can be raised against the practice. After this opening statement, Board of Trade witnesses, such as the master, officers, and any other persons who were on board the ship or not at the time of the casualty, and who could give material evidence about it, are

examined, and cross-examined, and may be re-examined by the Board of Trade, and such examination may include questions not contained in, or varying from, those given in the notice of investigation.

After the Board of Trade's evidence has been completed, the Board's representative must state in open Court upon what questions in reference to the casualty and the conduct of the certificated officers or other persons connected therewith the Board desire the opinion of the Court, and in framing these questions such modifications and alterations may be made with regard to the evidence given as the Board of Trade may think fit, as compared with those given in the notice of investigation.

Thus, it will be observed, no precise and written charge is to be preferred against an accused officer, and if he is not before the Court he *may* have his certificate cancelled or suspended in his absence, and without any knowledge of an accusation having been brought against him.

It has been, hitherto, material to consider whether the investigation, both before and after the charge, was one continuous proceeding, or whether the portion of the investigation before the charge was made, was not a distinct and separate proceeding from the portion after the charge, although the proceedings both before and after the charge took place before one and the same Court.

On this point there was considerable diversity of opinion and practice when the rules, framed under the Merchant Shipping Act, 1876, first came into force. In some Courts counsel or solicitors for parties before the Court were not allowed to cross-examine the witnesses produced by the Board of Trade prior to a charge having been made; whilst in other Courts this right was accorded to parties before the Court, or their representatives, from the commencement of the proceedings, and irrespective of whether any charge were preferred or not. Mr. Wreck Commissioner Rothery adopted the latter of these courses, and decided that the whole investigation formed one proceeding, both before and after the charge, and this practice has been, it is believed, almost universally adopted.

It is a question whether this course of procedure is in accordance with the true interpretation of these rules. However, whether this be so or not, there are many grave objections to urge against the practice. It seems most unjust that certificated officers, before they know what other charge (if any) is going to be preferred against them by the Board of Trade, should be severely cross-examined by parties whose interests are often adverse to their own, and then that the Board of Trade should (as is often the case) upon their own admissions or slips under cross-examination, frame a charge against them.

It seems, however, incredible that in England the judges who are to condemn or acquit in what may be a *quasi* criminal proceeding, should be allowed to interrogate and severely examine those who may and frequently do, the following day, stand in the same matter as accused persons before them, and particularly that they should so interrogate and examine before such person knows what (if anything) he is, or may be, charged with, and against what (if any) accusations he may have to defend himself.

The practical effect of this procedure is, that the representative of the Board of Trade, from the usually long examination of the certificated officers by the Court, or assessors, becomes perfectly aware of the view which the Court takes of the casualty, and then he, most naturally, frames his charge in such a manner as he thinks will secure the sympathy of the Court and obtain a conviction. Indeed it is by no means an uncommon occurrence for the subject-matter of the charge to be suggested entirely by evidence extracted from the accused himself by his judges prior to his accusation. In the case of the S.S. "*Brazilian*," the Court—a stipendiary magistrate—after the Board of Trade solicitor had declined to prefer any charge against the captain, demanded that a charge should be preferred, and thereupon, notwithstanding the protest of the captain and his solicitor, proceeded to adjudicate upon this charge, and suspended his certificate. On appeal to the Court of Queen's Bench, however, this decision was brought up and quashed. Many other objections might be urged against this mode of procedure.

The rules seem to point clearly to the fact that the whole of the

investigation is one continuous proceeding; this only intensifies the injustice of this procedure, for so far as can be gathered from the ambiguous language used, the Court not only may suggest the charge to be preferred, but actually themselves in effect prefer a charge, and cancel or suspend a certificate thereon, without even communicating such charge to the accused person.

Continuing, by Rule 12, after the Board of Trade has verbally expressed its views on the case, the Court shall proceed to hear the parties and determine the questions so raised. Each party is entitled to address the Court and produce witnesses, or recall any of the witnesses for further examination, and the parties shall be heard, and their witnesses shall be examined, cross-examined, and re-examined in such order as the judge may direct. The Board of Trade may also produce further witnesses, who may be examined, cross-examined, and re-examined.

When the whole of the evidence is concluded, any of the parties who desire to do so may address the Court upon the evidence, and the Board of Trade may address the Court in reply upon the whole case.

The judge may adjourn the Court from time to time and from place to place, as he may think fit.

The judgment may be delivered either *viva voce* or in writing, and may be sent or delivered to the parties. If, however, the certificate of any officer is cancelled or suspended the judgment must be given in open Court.

As already stated, the costs and expenses of an inquiry are in the discretion of the Court, and may be awarded against the Board of Trade or any defendants.

Any party to the proceedings may give to any other party a notice in writing to produce any relevant documents in his possession, and if such documents are not produced, the person giving notice may produce secondary evidence of their contents.

Any party may also give to any other party a notice in writing to admit any relevant documents, and if such party does not admit the same he must bear the costs of proving them, unless the Court is of opinion that his neglect or refusal to admit was under the circumstances reasonable.

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Affidavits may, by permission of the judge, be used, if sworn as follows:—

In the United Kingdom, before the judge of the Court, or before a person authorized to administer oaths in the Supreme Court of Judicature, or before a stipendiary magistrate or a justice of the peace for the county or place where the affidavit is sworn or made.

In any place in the British dominions out of the United Kingdom, before any Court, judge, or justice of the peace, or any person authorized to administer oaths in any Court in that place.

In any place out of the British dominions, before a British Minister, Consul, Vice-Consul, or notary public, or before a judge or magistrate, his signature being authenticated by the official seal of the Court to which such judge or magistrate is attached.

It is important that shipmasters and officers should bear this power in mind, as in many cases where the casualty happens abroad valuable evidence may by this means be made available for their defence, which would otherwise be lost to them.

In computing the number of days within which any act is to be done relative to shipping inquiries, the same shall be reckoned exclusive of the first and inclusive of the last day, unless such last day fall on a Sunday, Christmas Day, or Good Friday, or on a day appointed for a public fast or thanksgiving or holiday, in which case the time shall be reckoned exclusive of that day also.

Any notice, summons, or other document issuing out of the Court may be served by registered post, and the service may be proved by the oath or affidavit of the person serving the same.

From what has been already said it will be seen that the mode of procedure on these inquiries is unique—there being nothing like it in any judicial proceeding in England. It is, perhaps, most like an election commission in the inquisitorial nature of its procedure, but with this wide difference, viz., that if a witness before an election commission states all he knows fully and frankly, he receives an indemnity from any proceedings of a criminal nature being commenced against him. The masters and officers, however, who are cross-questioned and sifted on a Board of Trade inquiry as before

detailed, *may* have, and *most frequently do have*, a *quasi* criminal charge preferred against them, and even after the decision on such charge they still remain liable in many cases to actually criminal proceedings. That the present system is productive of much abuse and injustice is a matter well known to those practically acquainted with these shipping inquiries. There is, however, a right of appeal to the High Court.

The following short remarks respecting the most common matters charged against masters and officers may, it is hoped, prove useful:—

The Lead.—Perhaps the most frequent charge made is that of neglecting to use the lead. It is of the utmost importance that those in charge of vessels should see that both the deep-sea and hand leads are ready for use, and that they be used whenever circumstances require it, and whenever soundings could assist in fixing the ship's position or in avoiding danger.

The Log.—Masters and owners should be careful before commencing a voyage to see that the ship's logs are in good working order; and during the voyage the log should be from time to time carefully set, and the time of setting and taking same, together with the distance run, should be accurately noted and recorded in the log-book. Patent logs, of improved construction, should be provided, but patent-log distances should be checked by the common log.

Verification of Position.—No occasion should be left unused to do this by cross-bearings if obtainable, and the details of the bearings, &c., should be carefully noted at the time in the log-book. Observations should be taken whenever possible, and details of the workings should be kept in a book. The master should get the mate to verify his observations and go through his working.

Compasses.—The master and owner should see that these are properly adjusted and in good working order before the voyage commences, and in steamers or iron vessels the deviation cards supplied should be kept accessible in the chart-house. The master should from time to time, when possible, himself test the accuracy of his compasses by celestial observations, and also, if possible, by two fixed objects whose line of bearing is known.

Look-out.—Where possible a man should always be kept on the look-out ahead, but it is absolutely necessary to have a man there from sunset to sunrise, and during thick weather, or when the view ahead is obscured by canvas or otherwise from the officer in charge on the bridge, or other part of the vessel.

Too great a speed.—Whenever the weather comes in thick, or when the ship is in a doubtful or dangerous position, the speed of the vessel should, where possible and prudent, be decreased, and if necessary the vessel should be brought-to or stopped. This precaution especially applies at all times to rivers, roadsteads, and other places where there is special danger of collision.

Overloading and improper loading.—The master must, having regard to the requirements of the Act, in these matters exercise his own independent judgment as a prudent, cautious man, having regard to the time of the year, the nature of the cargo, the duration of the voyage, and other circumstances of the case.

Charts.—The onus of having good charts, sailing directions, &c., for the navigation of his vessel is fixed upon the master, and frequently also their cost, instead of this trifling expense being borne by the owners of the ship. Casualties have arisen from the use of charts long out of date, leading unjustly to the discredit of "Blue Backs," which are admitted to be the most practical works published for the use of seamen. It stands to reason that private firms have a much greater interest in keeping their publications correct and up to date, than any government official can have in similar work. Nevertheless, as advised in Findlay's "North Atlantic Directory" (15th Edition, page 4), no chart, "official" or otherwise, can be considered as *absolutely perfect*, and the mariner should exercise some amount of common sense in their use, especially when navigating in localities with which he is not familiar.

It should be kept in mind that, as a rule, a master may navigate by any chart he pleases to use, and that no chart, "official" or otherwise, used as a *scape-goat* at an Inquiry, will be likely to exonerate an officer from the responsibility attaching to careless navigation. The owners or master should provide good general charts of recent date for the entire voyage, and also good detailed

large scale charts of the particular harbours, &c., likely to be entered during the voyage.

Leaving the Deck.—At critical points in the voyage the master should, if possible, arrange to be on deck in charge of the vessel, particularly if his officers are not very efficient, or are strangers to him. When the master or an officer gives up charge of the deck, and any special light or other guide or warning is being approached or passed, he should call the special attention of the officer relieving him to the fact, and, where safe and advantageous, should show him the ship's position on the chart.

Sailing Regulations.—Most careful attention should be paid to these rules, which will be found *ante*, page 59 *et seq.* The officer in charge should see that the proper regulation lights are burning during his charge, and that the steam whistle or fog-horn is kept going when circumstances require it. The rules for meeting and passing other ships should be so impressed on the memory as to enable them to be instantly acted upon where there is any danger of collision.

Before concluding this chapter, there are two other matters so nearly connected with the subject treated of that they demand a brief notice. They are Local Marine Board Inquiries and Naval Courts.

LOCAL MARINE BOARD INQUIRIES.

The constitution and functions of Local Marine Boards, generally, are set forth in the digest of the Merchant Shipping Act. (See hereafter).

By Section 471 of the Act, if the Board of Trade has reason to believe that any master, mate, or certificated engineer is from incompetency or misconduct unfit to discharge his duty, or that in case of collision he has failed to render assistance or give information such as provided by Section 422 of the Act, the Board may either institute an investigation or may direct the Local Marine Board at or nearest the place at which it is convenient for the parties or witnesses to attend, to institute such inquiry. And thereupon such persons as the Board of Trade may appoint for the purpose, or the Local Marine

Board shall, with the assistance of a local stipendiary (if any) or other competent legal assistant appointed by the Board of Trade, proceed to investigate the matter, and may summon the person charged to appear, but so as to give him full opportunity of making a defence either in person or otherwise. And the investigating body may summon witnesses, compel the production of documents, and do all necessary acts for carrying out the inquiry, and on the conclusion may, if they hold the person charged in default, either cancel or suspend his certificate. The costs are in their discretion, and at the conclusion of the investigation a report upon the case is made to the Board of Trade.

Where there is no Local Marine Board able or willing to hold the investigation, the Board of Trade may order the same to be instituted before a court of summary jurisdiction, and then the proceedings are just the same as in the case of the Board of Trade inquiries into shipping casualties, except that the Board of Trade may direct that the person bringing the charge of incompetency or misconduct to the notice of the Board of Trade shall be deemed the party having the conduct of the case.

NAVAL COURTS.

By Section 480 of the Merchant Shipping Act, 1894, any officer in command of any of Her Majesty's ships on a foreign station, or in the absence of such officer, any consular officer may summon a Naval Court in the following cases:—

1. Whenever a complaint which appears to require immediate investigation is made to him by a master or certificated officer, or one or more seamen, of any British ship.
2. Whenever the interest of the owner of any British ship, or of the cargo, appears to such officer to require it.
3. Whenever any British ship is wrecked or abandoned, or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or otherwise lost abroad, arrives at such place.

The Naval Court consists of not more than five, and not less than

three members, of whom, if possible, one is a naval officer not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the other members shall be either British naval officers, or British merchant service captains, or British merchants, and the officer summoning the same may be included, but not the master or consignee of the ship to which the parties complaining or complained against belong. The president is the member highest in rank.

The Court has full power of investigation, summoning and compelling the attendance of parties or witnesses, and the production of all necessary documents. An ample opportunity for defence shall be given to any person charged before the Court.

On the conclusion of the investigation the Naval Court has power to do any of the following acts :—1. If unanimous that the safety of the ship or crew, or the interest of the owner absolutely requires it, remove the master and appoint another person to act in his stead, but no such appointment shall be made without the consent of the consignee of the ship if at the place where the case is heard. 2. Cancel or suspend the certificate of any master, mate, or engineer, charged before them with incompetency, gross misconduct, drunkenness, or tyranny, or where the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by their wrongful act or default. 3. Discharge any seaman, and order his wages or any part thereof to be forfeited. 4. Decide any questions as to wages, fines, or forfeitures. 5. Direct that the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice at a foreign port, or his maintenance during imprisonment, be paid out of the present or future wages of such seaman or apprentice. 6. Send home offenders for trial. 7. The same power to try offences in a summary way under the Merchant Shipping Act as a court of summary jurisdiction in the United Kingdom; but any order for imprisonment must be confirmed in writing by the senior naval or consular officer present at the place where the Court is held, and the place of imprisonment must be approved by him. 8. May order a survey of the ship which is the

subject of the investigation. 9. And order the payment of costs as it deems right.

All orders of a Naval Court shall, where practicable, be entered in
• the official log-book of the ship to which the parties belong, and be signed by the President of the Court. The Naval Court shall send a report of the case, signed by the President, to the Board of Trade. Any person who obstructs or prevents a complaint, or the proceedings of the Court, is liable to a penalty not exceeding £50, or to imprisonment for a period of not more than twelve weeks, with or without hard labour.

The provisions of the Act with regard to Naval Courts apply to all British registered sea-going ships, and their owners, masters, and crews, when out of the jurisdiction of the United Kingdom or the British possession to which they belong, and an unregistered British ship will be considered as having been registered in the United Kingdom.

UNSEAWORTHINESS.

OF recent years public attention has been greatly aroused on the question of unseaworthiness, and, under the influence of popular opinion, several statutory enactments have been passed bearing directly on the subject. It is intended in this chapter to briefly place before the reader the present condition of the law on this increasingly-important question.*

COMPLAINTS BY SEAMEN.

By Section 463 of the Merchant Shipping Act, 1894, it is provided that any Court in which proceedings are taken against any seaman or apprentice belonging to any ship for the offence of desertion, or for being absent from his ship without leave, has power, whenever it is alleged by one-fourth of the seamen belonging to such ship, or if the number of seamen exceed twenty, then by not less than five of them, that such ship by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, is not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, to take all such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and for that purpose shall receive the evidence of the persons making the allegation, and may summon any other witnesses whose evidence they may think it desirable to hear, and if satisfied that the allegation is groundless shall adjudicate in the case, but if

* In the eyes of some of our legislators, shipowners appear to be included in the "criminal classes," from the amount of legislation levelled at them. Lloyd's Register, however, shows that British shipping bears a better character than that of any other first rate maritime nation. Thus, for the three months ending December 31st, 1894, the per-centage of British vessels lost was .69 and tonnage .49, as compared with Norway 2.30 and 2.16, Dutch 2.17 and .96, United States 1.75 and 1.14, France 1.28 and .94, and Germany 1.19 and .83, respectively. Some may say that this result is owing to legislation, but this is a matter for argument; in 1893 the loss of life at sea amounted to 7 per 1000 in the British Royal Navy, and only 5 per 1000 in the Mercantile Marine.

not satisfied shall before adjudication cause the ship to be surveyed. No seaman or apprentice charged with desertion or quitting his ship without leave, has any right to apply for a survey under this section, unless, previously to his quitting his ship, he has complained to the captain of the circumstances he alleges in justification of his acts or defaults.

The survey is to be held by one of the Board of Trade surveyors (if obtainable), or such other competent and impartial person as the Court may select. Such surveyor is to report in writing to the Court, and answer every question put to him by the Court. The written report of the surveyor is communicated to the parties, and the Court shall determine the question in dispute upon such report, unless it be proved that the opinions expressed in it are erroneous. If it be proved that the ship is not unseaworthy, or that the accommodation is sufficient, the costs of survey shall be paid by the persons complaining, and may be deducted out of their wages; but, if it be proved that the ship is unseaworthy, or the accommodation is insufficient, the costs shall be paid by the master or owner.

The same kind of survey may be held by direction of any Naval Court which is holding any inquiry at which the question of unseaworthiness arises.

By the same section, it is provided that when any seaman or apprentice is detained on a charge of desertion, &c., and it is proved that the ship *was* unseaworthy, or her accommodation *was* insufficient, the owner or master shall be liable to pay such seaman or apprentice such compensation as the Court, having cognizance of the matter, may award for his detention.

By Section 459 of the Merchant Shipping Act, 1894, the owner or master may appeal from the decision of the Board of Trade or other surveyor appointed by the Court as above mentioned, to one of the courts of survey as hereinafter mentioned.

It will be seen, from the above statement of the law, that there is a great power put in the hands of a discontented crew, whereby, if maliciously disposed, they could put the shipowner to a great deal of expense, and subject him to heavy loss and damage by delaying his ship on the most frivolous and vexatious pretexts. However,

Section 221 of the Act provides some remedy for this in making such persons liable to forfeiture of their effects and wages, and to imprisonment, with or without hard labour, as specified. There is also power under Section 461 for the Board of Trade to demand security for costs and damages in certain cases before a ship will be detained and surveyed.

WARRANTY OF SEAWORTHINESS TO SEAMEN.

By Section 458 of the Merchant Shipping Act, 1894, it is provided that in every contract of service, express or implied, between the owner of a ship and the master or seamen thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, *notwithstanding any agreement to the contrary*, an obligation on the owner of the ship, that such owner and the master of the ship and every agent charged with loading the ship, or preparing or sending her to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep the same in a seaworthy condition during the voyage in question. But the above obligation shall not subject the owner to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, it is reasonable or justifiable so to do.

It will be observed that whilst the benefit under this section is expressly extended to the master, he is exempted from any liability; for the implied obligation is "on the part of the owner of the ship." Of course if it is through the fault of the master himself that the ship is unseaworthy at the time when any damage arises, the master or his representatives will have no right of action against the ship-owner. The effect of this section is important, for it gives the whole crew a right of action for any damage they may sustain, either to goods or chattels or to their person, and also a right of action in case of death to their representatives under Lord Campbell's Act, where the damage or death occurred in consequence of the unjustifiable unseaworthiness of the ship.

SENDING UNSEAWORTHY SHIPS TO SEA A MISDEMEANOUR.

By Section 457 of the Merchant Shipping Act, 1894, it is provided that "If any person sends or attempts to send, or is party to sending or attempting to send a British ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanour unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable; and for the purpose of giving that proof he may give evidence in the same manner as any other witness. If the master of a British ship knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanour, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable; and for the purpose of giving such proof he may give evidence in the same manner as any other witness. A prosecution under this section shall not, except in Scotland, be instituted otherwise than by or with the consent of the Board of Trade, or of the Governor of the British possession in which the prosecution takes place. A misdemeanour under this section shall not be punishable upon summary conviction."

From a careful perusal of the above section it will be seen that very extensive powers of prosecution are given; however, in comparison with the number of ships in our mercantile marine very few such prosecutions have been instituted. The persons who may be liable are those whose duty it is to send a ship away, viz., the owners, managing owner, ship's-husband, master, and agent (not a mere broker or financial agent, but one who has some measure of responsibility at the port of loading or discharge or elsewhere for the ship's condition). It must be some person who from his position may fairly or reasonably be supposed to know the condition of the ship, and whose express or implied duty it is to do what is necessary

to have her put in a seaworthy condition, or whom the law may fairly consider responsible for neglecting to see that this is done. Therefore a part owner, who takes no part in the management, but merely pays his share of expenses and accepts his share of profits, is not intended to be made liable under the above section.

The reader will have observed that if the person accused can show that "all reasonable means" were taken to insure the ship being sent to sea in a seaworthy manner, he is thereby held exonerated from blame. This exemption would, it is believed, cover a case of this kind—where a part owner who, whilst taking some part in the management, did not personally attend to or supervise any work done to the ship, and who gave the ship's-husband (whose duty it was to do so) full instructions to have all the necessary repairs done before the ship went to sea, and had reasonable grounds to believe that such repairs had been done under the direction of the ship's-husband, who, however, omitted to have the work done, or who neglected to see that the work was efficiently executed, whereby the ship was sent to sea in an unseaworthy condition. Many other cases can be imagined in which this exemption would be a good statutory defence to criminal proceedings.

The other defence which a person charged under this section may set up is, that the act was "reasonable and justifiable under the circumstances." The whole question then would turn upon what were the special and peculiar circumstances which take the case in question out of the usual rule, and these must be such as to enable sensible and reasonably cautious and prudent men to say the act was under these circumstances reasonable and justifiable. There can easily be imagined circumstances of a ship becoming unseaworthy at or near a place where repairs would be so exorbitantly excessive, or so difficult to effect, as to make it reasonable or justifiable to continue the voyage to another port, although the ship may not have been seaworthy, and it may have been in some degree dangerous to human life to do so. The burthen of proving these defences of course falls on the defendant.

The defendants in these cases may, contrary to the usual rules of English criminal law, give evidence on their own behalf. In some

cases this may be a most valuable privilege; but it lays the defendant who declines to give evidence open to the damaging observation that he feels his own case to be so bad that he cannot support it with his oath.

It will be noticed that, before any prosecution under this section can be undertaken, except in Scotland, the sanction of the Board of Trade must be obtained, or if in any British possession or colony, the sanction of the governor of such possession or colony. Such misdemeanour cannot be punished on summary conviction; that is to say, the case cannot be tried before the magistrates, but *must* come before a jury.

The section above mentioned does not prescribe the punishment which follows a conviction, but by Section 680 of the Act, it is provided that every offence declared to be a misdemeanour shall be punishable by fine or imprisonment with or without hard labour.

DETENTION OF UNSEAWORTHY SHIPS.

By Section 459 of the same Act, any British ship which is in a port in the United Kingdom, and by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, is unfit to proceed to sea without serious danger to human life (having regard to the nature of the service for which she is intended), may be provisionally detained for the purpose of being surveyed, and either finally detained or released under the following regulations:—

The Board of Trade, if they have reason, on complaint made to them, or otherwise, to believe that a British ship is unsafe, may provisionally order her detention for the purpose of survey by competent persons, appointed by the Board, and written notice of her detention, with the grounds thereof, must at once be served on the master. The owner or master of the ship may require that the Board of Trade surveyor shall be accompanied by such person as the owner or master may select out of a list of assessors, appointed as hereinafter mentioned, and on their joint opinion the Board of Trade *must* act; but if the two surveyors disagree, the Board may act as it thinks fit.

On receiving the surveyors' report, the Board of Trade may either release the ship or order her final detention, either absolutely, or until such conditions as are insisted upon by the Board of Trade have been complied with. A copy of the surveyors' report must be served on the master of the ship before final detention, and within seven days of such service the owner or master may appeal in proper form to the District Court of Survey, as hereinafter mentioned (see form of notice of appeal, page 192). When a ship is provisionally detained, the Board of Trade may at any time refer the matter to the District Court of Survey.

COURTS OF SURVEY.

By Section 487 of the Merchant Shipping Act, 1894, a Court of Survey for a port or district shall consist of a judge, sitting with two assessors.

The judge shall be one of a list of persons approved from time to time for the port or district by one of Her Majesty's Secretaries of State, such persons being wreck commissioners, stipendiary or metropolitan police magistrates, county court judges, and other fit persons. In any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner.

The list of the names of persons appointed under the Act shows that the persons appointed as judges are, in England, county court judges whose districts abut on the sea-coast, and the stipendiary magistrates or recorders of the important ports. In Scotland, the sheriffs of the maritime counties, or their substitutes; and in Ireland, the recorders of Dublin, Belfast, Cork, and some other large seaports, also the resident magistrates of seaports, or the chairmen of maritime counties.

The two assessors must be persons of nautical, engineering, or other special skill and experience, one of them being appointed in each case by the Board of Trade, and the other being summoned by the Registrar of the Court of Survey out of a list of persons periodically

nominated for the purpose by the Local Marine Board of the port or district, or if no such board exists, then by a body of local shipowners or merchants approved for that purpose by a Secretary of State. If there is no such list of assessors, then the second assessor shall be appointed by the judge of the Court.

The registrar is the County Court registrar, or such other fit person as a Secretary of State may appoint, and he shall, on receiving notice of an appeal, or a reference from the Board of Trade, immediately summon the Court in the prescribed manner. The registrars who have been appointed by a Secretary of State under this Act, are, except in London, the registrars of the county courts of the places at which the Courts of Survey are held, and their offices are the offices of the county courts; the registrars in Scotland are the sheriffs' clerks of the counties in which the Courts are held, and their offices are the offices of the said sheriffs' clerks. The registrars in Ireland are the clerks of the peace, or registrars, or other persons discharging the duties of registrars of the courts of the chairmen of the counties in which the Courts of Survey are held, and their offices are the offices of the clerks of the peace, registrars, or other persons, as aforesaid.

The hearing takes place in open court, and the judge and assessors may either survey the ship themselves or order some competent person to do so. The judge has power to order the ship to be finally or conditionally detained, but unless one of the assessors concurs in the order for detention the ship shall be released. The owner and master, and any person appointed by them, and also any person appointed by the Board of Trade, may attend at any inspection or survey which the Court may make or direct to be made. The judge shall send a report in writing to the Board of Trade, and each assessor shall either sign such report or give the Board of Trade the reasons for his dissent.

The Lord Chancellor of Great Britain has power to make, alter, and add to or vary rules to regulate the procedure of and incidental to these Courts of Survey, and such rules have the same force as the Act itself. The rules framed under this power will be found set out fully at the end of this chapter.

COSTS AND DAMAGES.

By Section 460 of the Act, if it should appear that there was not reasonable or probable cause for the provisional detention of the ship, the Board of Trade shall be liable to pay the shipowner his costs of and incidental to the detention and survey, and also compensation for any loss or damage sustained by him by reason of such detention or survey.

When a ship is finally detained, or if it appears that the ship at the time of her provisional detention was unsafe within the meaning of the Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship, and those costs may be recovered in the same way as salvage. In case of dispute these costs may be ascertained in England and Ireland by one of the masters or registrars of the High Court, and in Scotland by the auditor of the Court of Session.

Any action against the Board of Trade for any costs or compensation, as above mentioned, may be brought against the Secretary of the Board in his official title, as if he were a Corporation sole. If in Ireland, the High Court may order the summons or writ to be served on the Crown and Treasury solicitor.

When a complaint is made to the Board of Trade or a detaining officer that a certain British ship is unsafe, the Board or the detaining officer *may* require the complainant to give satisfactory security for the costs and compensation which such complainant may become liable to pay. If the complaint, however, is made by one-fourth (being not less than three) of the seamen belonging to the ship, and is not in the opinion of the Board or detaining officer frivolous or vexatious, such security shall not be required, and the Board or officer shall, if the complaint is made a sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

Where, owing to any complaint made to the Board of Trade or a detaining officer, a ship is detained under such circumstances as to make the Board of Trade liable to pay costs and compensation to the

shipowner, then such complainant is liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

SCIENTIFIC REFEREES.

By Section 490 of the Act, if any appeal, as above mentioned, involves a question of construction or design, or if scientific difficulty or important principle be in question, then the Board of Trade *may* refer the matter to such one or more "scientific referees"; (whose names are contained in a list from time to time approved by a Secretary of State) as may appear to possess the special qualifications necessary for the particular case. The referees may be selected by agreement between the Board of Trade and the appellant, and in default of such agreement a Secretary of State shall appoint the referee or referees, who shall determine the question in dispute *instead* of the Court of Survey. If the appellant demands that the appeal be decided by a scientific referee, and shall give security for all costs and expenses incidental thereto, then the appeal shall be referred to a referee or referees selected as above mentioned. The referees shall have the same power as a judge of the Court of Survey.

APPEAL ON REFUSAL OF CERTAIN CERTIFICATES TO SHIPS.

Under Sections 275, 318, and 420 of the Act, 1894, where a shipowner feels aggrieved by a declaration of a shipwright or engineer surveyor, or by the refusal of such surveyor to give such a declaration, or by the refusal of a clearance certificate by an emigration officer under the Act, or by the refusal of a certificate as to the sufficiency of the lights and fog signals of the ship, the owner may appeal to the Court of Survey for the port or district where the ship for the time being is, and such matter in dispute is decided by the Court of Survey, which has power to order the necessary certificates and declarations to be furnished to the shipowner, or to confirm the refusal to supply them. Unless the judge otherwise order, the costs of and incidental to an appeal under this power follow the event.

FOREIGN SHIPS OVERLOADING.

By Section 462 of the Act, where a foreign ship having taken on board all or any part of the cargo at a British port becomes unsafe from overloading or improper loading, she may be detained like a British ship, but a copy of the order for provisional detention shall be served on the consular officer of the country to which the ship belongs, who exercises jurisdiction at or nearest the place where the ship is detained. Such consular officer may, at the request of the master or owner of the ship, require that the Board of Trade surveyor be accompanied by a person whom he selects, and if the surveyor and such person agree, then the ship shall be either detained or released accordingly, but if they differ, the Board of Trade may act on their own surveyor's sole report, against which the owner and master of the ship have an appeal to the Court of Survey before mentioned. On such appeal, however, the consular officer may, at the request of the owner or master, appoint some competent person to be the second assessor of the Court.

GRAIN CARGOES.

Sections 452 to 457 of the Merchant Shipping Act, 1894, provide that where a grain cargo is laden on board any British ship *all necessary and reasonable precautions* (whether specified in the Act or not) shall be taken in order to prevent the grain from shifting. A "ship laden with a grain cargo" is defined as a ship carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship, reckoning 100 cubic feet or 2 tons of grain for each ton of registered tonnage. "Grain" is defined as meaning any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

In British ships laden with grain from the Mediterranean or Black Seas, and bound to ports outside the Strait of Gibraltar, or if laden on the coast of North America, the precautions must comply with certain specified rules given in Schedule XVIII to the Act, or in accordance with regulations approved by the Board of Trade, whereby

the grain cargo must be contained in bags, sacks, or barrels, or secured from shifting by means of boards, bulkheads, platforms, &c., and the owner, master, and agent for loading or sending any ship to sea, who *knowingly* disobeys this provision, incurs a penalty of £300, to be recovered on summary conviction. If these rules are not complied with, it shall be deemed that reasonable precautions have not been adopted to prevent the grain cargo from shifting.

The master of a grain laden ship, on leaving her final port of loading, must cause a notice to be delivered to the British Consular officer or chief officer of Customs, stating the vessel's draught and freeboard, with particulars of the grain and the quantity thereof, how stowed, and what precautions have been taken against shifting. On his arrival in the United Kingdom a similar notice must be delivered to the Customs officer. In default, or for wilful false or incomplete statements, the master is liable to a fine of £100.

Shifting boards must extend to the keelson, and there shall not be carried between the decks, or if the ship has more than two decks, between the main and upper decks, any grain in bulk, except such as may be necessary for feeding the cargo in the hold, and carried in properly constructed feeders. Grain carried in bulk must be supplied by proper feeders, or else secured by bags of grain or other cargo.

The Board of Trade has approved the Rules for the Loading of Grain drawn up by the Boards of Underwriters of New York, New Orleans, and San Francisco, and the Port Warden of Montreal, and we here give those drawn up by the New York Underwriters in November, 1892, as a specimen :—

RULES FOR LOADING GRAIN IN BAGS OR BULK.

Vessels loading grain in bags or bulk on voyages from the United States to Europe will be required to conform to the following rules, to enable the surveyor to issue the proper Certificate :—

1. *The Pump-well* must be sufficiently large to admit a man to the bottom of the hold, and room to work conveniently, say not less than 4 feet fore and aft, and 5 feet athwartships (reference, however, must be had to the size of the keelson and assistant keelsons), and must be grain-tight and ceiled if required.

2. Access to the pump-well must be either by a man-hole through the upper deck, or by a clear passage-way between decks from the after hatch. In no case must it be from the main hatch.

SAILING VESSELS (Wood).

Grain in Bags.

3. *Dunnage.*—Vessels being loaded with grain in bags shall be dunnaged from 6 to 12 inches on the floor, and from 6 to 15 inches on the bilges; and 2 inches on the sides, according to the form of the ship's bottom. In between-decks shall be dunnaged 2 inches from the sides.

4. The dunnage in the hold must be laid over with boards and entirely covered with sails, or approved mats, so as to prevent any of the loose grain from running down to the pump-well. The sails and mats must cover the keelsons.

5. *Shifting Planks.*—Two-inch shifting planks (or equivalent) extending from the beams 4 feet downward, and between decks, from deck to deck, must be properly secured on each side of the stanchions, and care must be taken that the stanchions are well fastened at top and bottom, and properly shored, especially in the hatchways.

6. Care must be taken that the bags are properly stowed, and that those stowed in the ground tier, as well as those that are next to the sides of the vessel, are in perfect order, and that the tiers are laid close and well filled. When stowed on bulk or loose grain, must have boards under them laid fore and aft and so placed that each bottom bag shall be supported by two boards with athwartship bearing boards sufficient to prevent the bags from settling into the bulk grain.

Grain in Bulk, and in Bulk and Bags.

7. *Bins.*—Bulk or loose grain must be taken in bins prepared for that purpose. Materials for bins must be of well-seasoned stock.

8. Rules 1 and 2 likewise apply to vessels being loaded with grain in bulk.

9. *Floor of Bin.*—The floor of the bin must be laid on sleepers of scantling $2\frac{1}{2}$ by 4 inches in size, 16 inches apart from centre to centre, supported by studs of corresponding size, also 16 inches from centre to centre. It must be raised from 6 to 12 inches over the floor of the vessel—in the bilge from 6 to 15 inches, and in vessels that are very flat or sharp, may be increased or diminished at the discretion of the surveyor. In no case shall the floor of the bin be laid on loose dunnage.

The floor is considered as extending from the keelson to the turn of the bilge. It must be laid with two thicknesses of one-inch boards so that they will break joints at the edges and ends, and care must be taken that it be perfectly tight. Vessels under 800 tons register may be permitted to have a single floor laid with one-inch boards placed edge and edge and seams covered with battens 2 by 1 inch, or edges lapped 1 inch.

10. The studs for the forward and after bulkheads for vessels not exceeding 14 feet depth of hold must be equal to 4 by 6 inches in size; for vessels of a greater depth than 14 feet, they must be equal to 4 by 8 inches. They must be set 20 inches apart from centre to centre, firmly secured at the top and bottom, and properly braced and cleated on the ceiling, to resist the pressure of the grain, and made grain-tight.

11. All air strakes and open seams must be closed, and the sides of the vessel above the turn of the bilge must be ceiled after the manner of clapping reversed, and not furred where it can be avoided. When furring is used the bilge ceiling must be made grain-tight at the sides by shutters. All lodging and bosom knees not fitted tight to deck must be cleated around the face of the knee.

12. *Shifting Planks* 2 inches thick (in vessels under 250 tons register 1-inch boards with edges lapped or battened may be substituted) must extend from the keelson to the deck on each side of the stanchions, fitted tight under on one side with shutters, the other side is to be left open between the deck and the lower edge of the beam, so that the space between the shifting boards can be filled with grain. If single planks are used, they must be made grain-tight under the deck and between the lower edge of the beams with well-fitted shutters between the shifting boards and the deck.

13. *Masts and Water Tanks*, either of wood or iron, must be properly cased to prevent damage from leakage, and mast coats must be strong and tight.

14. Vessels carrying a full cargo in bulk are required to have, in addition to the forward and after end bulkheads, two trimming bulkheads (thus making a division of three compartments), to extend from the upper deck to the bottom of the vessel. Except where the between-decks are laid aft, the after one may extend only to lower deck, and so placed that in loading the middle compartment will be entirely filled and the end ones left to trim the vessel. If the end compartments are not entirely filled care must be taken that the cargo is properly secured to prevent shifting. The studs for the trimming bulkheads to be not less than 3 by 6 inches and set 22 inches from the centres, and all studs to be firmly secured at top and bottom and properly braced and cleated.

15. Vessels carrying bulk and bags must not carry the bulk higher than to admit of the stowage of one quarter of the cargo, or not less than five heights of bags over it except the vessels be under 500 tons register, when the height may be regulated by the surveyor.

Vessels with two decks, having bulk in the hold as high as the lower deck, shall have strakes of 'tween deck-plank open on each side over the bulk, in the wings and amidships, and about 2 feet of bulk grain on the deck.

When the hold is not filled to the deck, enough space must be left to stow sufficient cargo over it to properly secure it.

The grain must be well trimmed up between the beams and wings, and the space between the beams and wings completely filled.

16. *Draft or Free-Board.*—The draft of water or free-board to be regulated by a scale approved by the Loading Committee. Free-board shall be measured from top of deck at the side of the vessel to the water's edge at lowest part of sheer.

IRON SAILING VESSELS.

17. The foregoing rules are also to apply to iron sailing vessels, excepting that in cases where the frames and inside of plating are in such condition as to warrant it, the side ceiling may be dispensed with.

IRON STEAMSHIPS.

1. Steamers with or without water ballast tanks, and the floors planked with $2\frac{1}{2}$ or 3 inch planks, the same being sound, dry, and grain-tight, and not less than 18 inches above cementing, will not be required to sheath over the same.

2. Steamers with continuous hold forward will require a close bulkhead in the same, and also aft if deemed necessary by the surveyor.

3. Two to three inch shifting planks, or equivalent (at the discretion of the surveyor), must be properly secured to stanchions or shored every 8 feet of length and every 5 feet of depth of hold. Shores to be 3 by 8 to 4 by 6, at the discretion of the surveyor.

4. No bulk grain to be carried above main deck, unless the same can be, or is opened, in conformity with Rule 15, otherwise must have properly constructed feeders to feed the holds, feeders amidships to have centre shifting boards. All vessels with iron decks not having sufficient openings in the wings will be required to utilise all such openings with feeders.

5. Steamers not having properly constructed feeders will be required to leave sufficient space above the bulk, not less than $5\frac{1}{2}$ feet, to properly secure it with bags or other cargo; the bulk to be platformed as in Section 6.

6. Steamers having one deck and beams may carry bulk to such a height as will permit the stowage over it of not less than five heights of bags, excepting at extreme ends, when four heights will be sufficient, stowed over boards laid fore and aft, and so placed that each bottom bag shall be supported by two boards with athwartship bearing boards sufficient to prevent the bags from settling into the bulk grain.

7. Section 16 for sailing vessels, is also applicable to steamers.

8. The class of steamships known as Switch-back or Web-frame are allowed to carry all bulk grain in No. 2 Hold only. The feeding hatch to have shifting planks in the middle as high as the hatch covers.

9. The class of steamers which have long bridge decks, same being double deck at Nos. 2 and (or) 3 Holds, may carry all bulk grain in said holds only, same must be fitted with properly constructed feeders, with shifting boards extending up to top of hatch covers. No bulk grain will be allowed to be stowed outside and around the feeders, between the decks. Bunker hatches in this hold are to be utilised for feeders when possible. A bulk-head is required between Nos. 1 and 2 Holds.

10. *Oats*.—Oats are allowed to be shipped in bulk in steamships fitted for grain, excepting the feeders, but must be trodden down to the satisfaction of the surveyor, while being loaded.

11. *Flaxseed*.—Flaxseed is to be shipped in the same manner as wheat, excepting that the boards covering the bulk seed shall be placed close together.

GENERAL REGULATIONS.

Owners and masters of vessels intending to load grain are particularly requested to give early notice to the surveyors at this office, when ready for fitting, and also when ready to receive grain.

Vessels loaded in conformity to the foregoing rules may have a certificate to that effect from the surveyor appointed by "The Board of Underwriters of New York," and the respective Insurance Companies composing the said Board will be duly notified thereof.

DECK CARGOES.

The question of the danger of carrying deck loads, particularly in certain seasons of the year, has occupied much attention, and in order, if possible, to restrict the carrying of such cargoes on deck, Section 85 of the Merchant Shipping Act, 1894, enacts, that when in any ship, British or foreign, cargo is carried on any uncovered space on deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, then the ship is liable to additional dues for the space occupied by such cargo. Such space shall be ascertained by a Board of Trade or Customs' officer in manner directed by the Act, and shall be entered by him in the official log, and also on a memorandum which he hands to the master; and the master must, on the ship's dues being demanded, produce such memorandum just as if it were the certificate of registry, and in default is liable to a penalty of £100.

By Section 451 of the same Act it is provided that no ship, British or foreign, is to arrive in any port in the United Kingdom from any port out of the United Kingdom, between the last day of October and the 16th day of April, carrying as deck cargo any "wood goods" as follows :—

1. Any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatsoever.
2. Any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use.
3. Any deals, battens, or other light wood goods of any description, to a height exceeding 3 feet above the deck.

And the master and owner (if privy to the offence) shall be liable to a penalty not exceeding £5 per hundred cubic feet of wood goods carried in contravention of the above provision. Such penalty may be recovered by action or on indictment, or if the amount does not exceed £100 on summary conviction before the magistrates.

The following defences may be set up by the master or owner :—

1. That the wood goods were considered necessary on deck on account of the springing of any leak, or of any other damage to the ship received or apprehended.
2. That the ship had sailed from the port of loading such deck cargo at such a time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at her port in the United Kingdom, but was prevented from so doing by stress of weather or other circumstances beyond his control.
3. That he sailed from the port of loading such deck cargo at such time before the 16th of April as allowed a reasonable interval (according to the ordinary duration of the voyage) for the ship to arrive at her port of discharge in the United Kingdom after such 16th of April ; but the said ship had arrived home before that day owing to an exceptionally favourable voyage.
4. That the ship was not bound to any port in the United Kingdom, but came into a port in the United Kingdom under stress of weather, or for repairs, or for any purpose other than the delivery of her cargo.

DRAUGHT OF WATER, AND DECK AND LOAD-LINES.

Owing to the numerous losses of British merchant ships, traceable directly or indirectly to overloading, provisions were introduced into the Merchant Shipping Act, 1876, with the object of checking or diminishing this abuse, and these, altered or amended by later legislation, are now embodied in Sections 436 to 445 of the Merchant Shipping Act, 1894.

By Section 436 the Board of Trade is empowered to direct any person to record for them the draught of water of any British sea-going ship proceeding to sea, as shown on her stem and stern post, and the amount of freeboard, and the master must give him every facility to do so, under a penalty of £5. The same particulars must be always entered by the master in the official log.

Section 437 provides that every British ship (except ships under 80 tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall be permanently and conspicuously marked with lines (in the Act called *Deck-Lines*) of not less than twelve inches in length, and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water. The upper edge of each of these lines must be level with the upper side of the deck plank next the waterway at the place of marking. The lines must be white or yellow on a dark ground, or black on a light ground.

The following are the provisions as to the *Load-Lines*:—The owner of every British ship (except as aforesaid) shall, before entering outwards (if a foreign-going ship), mark on each side amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc 12 inches in diameter, with a horizontal line 18 inches in length, drawn through its centre; the centre of this disc shall be placed at such level below the deck-lines as may be approved by the Board of Trade, according to certain specified tables, or modifications of them, and shall indicate the maximum load-line in salt water to which it is lawful to load the ship.

There shall be inserted in the form of entry delivered to the collector or other principal officer of Customs, a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the deck-lines above mentioned; and in default of entering these particulars any officer of Customs may refuse to enter the ship outwards. A copy of these particulars must be entered in the official log, and also in the agreement with the crew, before it is signed by any of them; and no superintendent of a mercantile marine office can proceed with the engagement of a crew until this is done. When so marked with a load-line it must be kept unaltered in that position until the ship returns to a port of discharge in the United Kingdom.

By Section 441 there are similar provisions for fixing and indicating the load-line of British coasting vessels (over 80 tons register), and once every twelve months the owner of such ship shall supply the chief officer of Customs at her port of registry with the relative particulars of load and deck lines respectively, as before mentioned, and shall give such chief officer immediate notice of any renewal or alteration of the disc, and also the said relative particulars. And if there is any neglect or default in sending or delivering the statements and notices as above named, the owner is liable to a penalty not exceeding £100.

Any owner or master of a British ship who neglects to cause his ship to be marked, or to keep her marked, as above provided, or allows the ship to be loaded so as to submerge in salt water the centre of the disc; and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control so to do (except in a lawful manner, or to escape capture by an enemy) incurs a penalty not exceeding £100. If any of such marks are inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding £100.

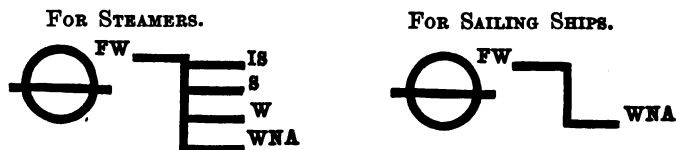
Vessels with the centre of the disc submerged in salt water are to be deemed unsafe, and may be detained.

The Merchant Shipping Act, 1890, empowered the Board of Trade to make regulations for determining other lines or marks to be used in connection with the disc, in order to indicate the maximum load-

line under different circumstances and at different seasons, and to issue certificates of approval, which must be entered on the ship's official log, under a penalty of £100. Regulations were accordingly issued in 1890, to carry the above into effect, and these, as amended and issued in 1892, are now in force.

The lines are to be painted on each side of the ship, the same as the disc, and the position of the disc and of each of the lines shall in the case of iron and steel vessels be permanently marked by centre-punch marks, and shall in the case of wooden vessels be sunk for their breadths into the planking a depth of not less than one quarter of an inch. The lines are to be 9 inches in length, 1 inch in thickness, and the maximum load-line shall be the upper edges.

The said lines are to be horizontal, extending from a vertical line marked 21 inches *forward* of the centre of the disc, the maximum draught in fresh water being marked *abaft* this line, and in salt water *forward* of it, and marked by conspicuous letters, as shown in the following diagrams :—



FW indicating Fresh Water line ; **IS**, Indian Summer ; **S**, Summer ; **W**, Winter ; **WNA**, Winter, North Atlantic.*

* *Indian Summer (IS)* is understood to refer to the fine season in the Indian seas, between Suez and Singapore, and to extend from the time when the N.E. Monsoon has become well established to the time when the S.W. Monsoon may be reasonably expected. By the Load-Line Regulations for the Government of Bengal, 1894, in the Bay of Bengal it is from November 15th to May 15th, and on the West Coast of India from September 1st to May 15th.

Summer (S) is included between April 1st and September 30th in voyages from European and Mediterranean ports ; in other parts of the world the usual summer months or fair season are understood. *Winter (W)* embraces the other months.

Winter, North Atlantic (WNA), extends from October 1st to March 31st, and applies to vessels navigating in European or Mediterranean waters, or on the coast of North America North of lat. 37° 30' N.

The upper edge of the line passing through the centre of the disc always indicates the summer load-line in salt water.

Steamships shall be marked with such of the lines as are applicable to the nature of their employment. Sailing ships engaged solely in the coasting trade shall only be marked, in addition to the summer load-line, with the line indicating the maximum load-line in fresh water.*

Application for a certificate of approval of the position of the disc, or any alteration thereof, must be made by one of the registered owners of the ship or the builder, on a form addressed to the Committee of Lloyd's Register of Shipping, or any other corporation or association for the survey or registry of shipping approved by the Board of Trade, or the Board of Trade officer appointed for that purpose. When granted, the time for which the certificate of approval is valid depends upon any alteration in the classification or condition of the ship. The certificate is to be framed and publicly exhibited in the ship.

* The positions of these lines are determined according to Tables drawn up for various types of steamers and sailing vessels, in connection with the Report of the Load-Line Committee of 1885. These are contained in the Instructions to Surveyors, issued by the Board of Trade.

In connection with this subject we may give a simple rule for approximately estimating the difference in draught of a vessel, according to whether she be in fresh, brackish, or salt water. A cubic foot of fresh water weighs 1000 ounces, and a cubic foot of the densest sea water on the British coasts 1025 ounces. Then, suppose a vessel draws 20 feet when lying in the Cardiff or Newport Docks, where the hydrometer shows a cubic foot of water weighs 1008 ounces, on getting to sea she would rise 4 inches, or draw 19 feet 8 inches, by the rule of proportion that as 1025 is to 1008 so is 20 to the draught required.

GENERAL RULES FOR COURTS OF SURVEY.

Made under the Merchant Shipping Act.

1. *Short Title.*—These rules may be cited as “The Rules of the Court of Survey, 1876.”

2. *Commencement.*—These rules shall come into operation on the 1st day of October, 1876.

3. *Interpretation.*—In the construction of these rules, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number.

4. *Courts of Survey, their Districts and Officers.*—The Courts of Survey, with the districts assigned to each, and the persons authorised to act as judges and registrars thereof, and which have been approved by one of her Majesty's principal Secretaries of State, as set forth in an Appendix, shall be the Courts of Survey, and the districts, judges, and registrars of such Courts, for the purposes of the Merchant Shipping Act.

5. *Publication of Rules.*—These rules shall be published by her Majesty's Stationery Office through its agents, and a copy shall be kept at the office of the registrar of every Court of Survey, and at every Custom House and Mercantile Marine Office in the United Kingdom, and may be perused thereat by the master or owner of any ship which may be provisionally detained under the Merchant Shipping Act, and by anyone deputed by him.

6. *Publication of the Name of Registrar and of his Office.*—A notice shall be put up in some conspicuous place in every Custom House and Mercantile Marine Office in the United Kingdom, containing the name of the registrar of the Court of Survey for that district, and the name of the street or place in which such registrar's office is situated.

7. *Notice of Appeal.*—Where the owner or master of a ship, hereinafter called the appellant, desires to appeal to a Court of Survey, he shall file at the office of the registrar of the Court of Survey for the London district, or for the district in which the ship is, hereinafter called the Court, a notice as far as possible in the form following:—

NOTICE OF APPEAL.

The Merchant Shipping Act, 1894.

In the matter of the ship

To the registrar of the Court of Survey for

Take notice that I [name and address] the master [or managing owner, or owner of shares] of the ship of the port of do appeal—

1. From the report of, the surveyor appointed by the Board of Trade to survey the said ship.

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Or—

2. From a declaration given by , a shipwright surveyor or engineer; [or from the refusal of , a shipwright surveyor or engineer, to give a declaration] under the provisions of the Merchant Shipping Act, 1894.

Or—

3. From the refusal of , an emigration officer [or as the case may be], to give a certificate of clearance under the provisions of the Merchant Shipping Act, 1894.

Or—

4. From the refusal of , appointed by the Board of Trade under the provisions of the Merchant Shipping Act, 1894, to give a certificate that the said ship is properly provided with lights and the means of making fog-signals.

The address at which all notices and documents may be served by post or otherwise on me is

Dated this day of , 189 . .

(To be signed by the appellant).

8. *Summoning of Court.*—Immediately upon the filing of the notice of appeal, the registrar shall communicate the fact, by telegraph and letter, to the Board of Trade, who shall thereupon inform him whether they intend to have the appeal heard by a wreck commissioner, and, if so, on what day.

9. If the Board of Trade inform him that they do not intend to have the appeal heard by a wreck commissioner, the registrar shall forthwith ascertain which of the other judges of the Court will hear the appeal, and on what day.

10. On ascertaining when the hearing will take place, the registrar shall, if there is a list of assessors for the Court, select therefrom the person who is, in his opinion, the best qualified to act as assessor on the appeal; or if there is no such list, he will take the instructions of the judge as to the assessor to be appointed.

11. The Board of Trade shall appoint the other assessor, and shall forthwith send the name and address of such assessor to the registrar.

12. If the ship is a foreign ship, the registrar shall give notice to the consular officer for the state to which the ship belongs, residing at or nearest to the place where the ship is detained, that, at the request of the appellant, some competent person will be selected by the officer to act as assessor.

13. As soon as the registrar has ascertained by whom the appeal will be heard, he shall summon the Court. He shall at the same time send notice thereof to the Board of Trade and to the appellant.

14. If the survey has been made on the complaint of any person, hereinafter called the complainant, the Board of Trade shall send to him notice of the time and place appointed for the hearing.

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15. Previous to the hearing, the Board of Trade shall forward to the registrar, to be produced as evidence at the hearing, an official copy of the report of the surveyor.

16. The Court shall, if practicable, be summoned to hear the appeal on a day not later than fourteen days from the filing of the notice of appeal.

17. *Parties.*—The Board of Trade and the appellant shall be parties to the proceedings.

18. Any other person, on entering an appearance, may, by permission of the judge, be made a party to the proceedings.

19. *Notice to Produce.*—Either party may give to the other a notice in writing to produce such documents (saving all just exceptions) as relate to any matters in difference, and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

20. *Notice to Admit.*—Either party may give to the other party a notice in writing to admit any documents (saving all just exceptions); and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving such documents, whatever the result may be, unless the Court is of opinion that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the officer by whom the costs are taxed, a saving of expense.

21. *Witnesses.*—The wreck commissioner shall have power to issue subpoenas as nearly as may be in the form used in the High Court of Justice, and such subpoenas shall have effect, and may be served in any part of the United Kingdom.

22. *Affidavits.*—Affidavits may, by permission of the judge, be used at the hearing, when sworn to in any of the following ways, viz :—

In the United Kingdom, before any judge or registrar of a Court of Survey, or before a person authorised to administer oaths in the Supreme Court of Judicature, or before a commissioner empowered to take or receive affidavits, or before a justice of the peace for the county or place where it is sworn or made.

In any place in the British dominions out of the United Kingdom, before any court, judge, or justice of the peace, or any person authorised to administer oaths there in any court.

In any place out of the British dominions, before a British minister, consul, vice-consul, or notary public, or before a judge or magistrate, his signature being authenticated by the official seal of the Court to which such judge or magistrate is attached.

23. *Proceedings in Court.*—At the hearing, the Board of Trade shall first call their witnesses, and having done so shall state in writing what order they require the Court to make.

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24. The complainant, if he has appeared, shall then call his witnesses, and having done so shall state in writing what order he requires the Court to make.

25. The appellant shall then call his witnesses, and having done so shall state in writing what order he requires the Court to make.

26. After the appellant has examined all his witnesses, the Board of Trade and the complainant may, on cause shown to the satisfaction of the judge, call further witnesses in reply.

27. After all the witnesses have been examined, the Court shall first hear the appellant, then the complainant (if any), and afterwards the Board of Trade.

28. The judge may adjourn the Court from time to time and from place to place, as may be most convenient.

29. The judge may deliver the decision of the Court either *viva voce* or in writing; and, if in writing, it may be sent or delivered to the respective parties, and it shall not be necessary to hold a Court merely for the purpose of giving the decision.

30. As soon as possible after the Court has come to its decision, the judge shall issue an order for the release or detention (either finally or on condition) of the vessel.

31. The judge shall send a written report to the Board of Trade.

32. *Costs and Damages.*—The Court may, if the parties consent thereto in writing, decide whether costs, or costs and damages, are due, and to and from whom, and may assess the amount thereof; or the parties may, by consent in writing, refer the question to the wreck commissioner.

33. The order for the payment of costs, or of costs and damages, shall be in a specified Form.

34. *Computation of Time.*—In computing the number of days within which any act is to be done, the same shall be reckoned exclusive of the first day and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or on a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusive of that day also.

35. The days between Thursday next before ' and the Wednesday next after Easter Day and Christmas Day, and the three following days, shall not be reckoned or included in the computation.

36. *Services of Notices, &c.*—Any notice, summons, or other document issuing out of the Court may be served by post.

37. The service of any notice, summons, or other document, may be proved by the oath or affidavit of the person by whom it was served.

ARBITRATION.

IN the settlement of disputes arising out of mercantile transactions a reference to arbitration is usually by far the most expeditious, economical, and satisfactory remedy which the parties can adopt ; for, in the first place, the great and vexatious delay which is necessarily caused by an appeal to a court of law is altogether avoided, in addition to which a large amount of costs is saved, and the ill-feeling which almost always accompanies litigation is avoided. There is, in fact, no class of cases which are more suitable for reference to arbitration than differences in commercial matters, which usually arise between persons who are on friendly terms with each other, and free from petty jealousies, and who do not wish to quarrel over pure matters of business. In questions arising upon policies of insurance, and charter-parties, and also in collision cases, and other similar disputes, it is also usually very desirable that a decision should be obtained at once, instead of allowing the question to stand over unsettled for a length of time, especially if (as is very often the case) the witnesses are seafaring men, whose attendance it is both difficult and expensive to obtain if they must be kept ashore in order to appear in court.

The advantages of a reference to arbitration (in suitable cases) are apparent, and accordingly nearly all of the "mutual" insurance societies insert in their rules a clause to the effect that all disputes between the society and its members shall be referred to arbitration, and a similar provision is very frequently inserted in other mercantile agreements.

Although the reference of an *existing* dispute to arbitration has always been sanctioned and encouraged by the law, it was for a long time doubted whether an agreement to refer to arbitration any *future* disputes which might arise was binding ; it was argued that such an agreement was an attempt to deprive the courts of law of their jurisdiction, and that as every man had a right to appeal to the law, he was not bound by his agreement to go to arbitration. It was, however, ultimately decided by the House of Lords that, although an

absolute agreement *never* to sue in respect of any future dispute would not be legal or binding, still, if the agreement was worded in such a way as to make the reference to arbitration merely a preliminary proceeding (or "condition precedent") until the performance of which no action at law could be maintained, it would be *valid*; in other words, an agreement to refer future disputes is valid if it states that no action shall be brought *until after* the dispute has been referred to arbitration; then, if the award of the arbitrators is not performed, the person in default may be sued at law under the award.

By wording the intention carefully, a binding agreement may, therefore, be made to refer all disputes (both existing and future) to arbitration. The agreement which is most usually made, however, is simply an agreement to refer some existing dispute, or all present matters in difference, and an agreement of this kind is not subject to any technical rules. It is, however, very desirable that the agreement should be drawn out in proper form to avoid difficulties afterwards. (A form which will be found to be generally applicable is contained in the Appendix).

The first thing to be considered is the matter in dispute. If there is only one dispute it is better to describe the dispute shortly in the agreement, and refer that dispute only to the arbitrator. If, however, there are more disputes than one, the simplest plan is to state in the agreement that "all matters in difference" between the parties are to be referred to the arbitrator.

The next, and most important, point is the appointment of the person or persons to arbitrate. The most usual practice is for each party to appoint an arbitrator, and then the arbitrators choose an umpire or third arbitrator. In case the third person chosen is an umpire, he only acts when the arbitrators fail to agree, but if he is appointed third arbitrator, he sits and hears the matter from the beginning with the other arbitrators. The parties may appoint some person upon whom they can jointly agree as the sole arbitrator; but he should, of course, be a person who is entirely impartial and disinterested as to the matter in dispute, have some knowledge of the law and practice relating to the subject, and the procedure in an

arbitration. In important cases, where the question is simply one of law, it is sometimes better that a barrister should be the referee, but in all ordinary cases it is much more desirable to appoint a solicitor, an average adjuster (or an accountant, if the dispute is simply one of accounts), or other person who can bring to bear on the subject his practical business knowledge, and who has also some knowledge of the law and practice relating to arbitrations, to enable him to conduct the reference in a strictly legal and impartial manner, and prevent the parties from having to incur vexatious expenses afterwards through the ignorance of the arbitrator.

Having fixed upon an arbitrator, it may be well to direct in the agreement how the evidence shall be given before him. If nothing is said on the subject, the witnesses should go personally before him to be examined, but if the facts are not disputed a considerable saving may be effected by the parties agreeing upon the whole of the facts, or some portion of them. For instance, they may admit the facts stated in letters, protests, affidavits, or declarations, or, if the *whole* facts are agreed on, they may be written out, and signed, and annexed to the agreement. If all the facts are agreed upon there is then no absolute necessity for the parties to appear before the arbitrator at all, unless they wish to state their arguments before him.

When the agreement to refer is completed and signed, it should be sent to the arbitrator, who then (unless the parties have agreed upon the whole of the facts and do not wish to appear before him) fixes a time for hearing the parties and their witnesses.

The agreement usually fixes a certain time within which the award must be made. The arbitrator's authority expires at the time so fixed, and he cannot extend the time unless the agreement gives him power to do so. As it often happens, however, that unforeseen circumstances may prevent the award being made within the time fixed, an agreement of reference usually contains a power to the arbitrator to extend the time for making his award. When this power is given it should be exercised before the expiration of the time named. The extension may be made in any way the arbitrator thinks fit, unless the agreement of reference specifies any particular manner; for example, by a memorandum written on the back of the

agreement, which is the most usual way. Under an authority to extend the time for making the award, power is given to increase the term of extension from time to time as often as may be necessary.

The agreement should always contain a clause providing that it shall be lawful to make the award a rule of any of the divisions of Her Majesty's High Court of Justice.

The arbitrator should hear all the evidence which the parties adduce. To refuse to hear evidence is a very dangerous proceeding, and it will vitiate the award if any evidence on the point in question was *necessary*. The arbitrator, however, has power to reject evidence if he considers it is *inadmissible* under the ordinary rules of the law of evidence, and in deciding this he must act on the ordinary rules of evidence observed in courts of law, and he may consult a solicitor, and adopt his opinion if he thinks fit.

The arbitrator must of course hear *both* sides. If a question is referred to arbitration on the understanding that the arbitrator is to decide without hearing the parties, and one party afterwards asks to be heard, and the arbitrator wishes to hear him, he must give notice to the other so that both may be present. But if a party wilfully neglects to attend after notice to do so, the arbitrator should give a second notice stating that he will on a certain day proceed with the reference whether such party attends or not.

If either party asks for time to enable him to obtain evidence, the arbitrator should adjourn the matter for a reasonable time.

If a witness refuses to attend, a judge's order may be obtained at the Judges' Chambers to compel his attendance in all cases where the agreement of reference provides that the submission may be made a "rule of court."

The arbitrator should always take notes of the evidence adduced before him. When all the evidence has been taken he should inform the parties that he will proceed to make his award, but if he afterwards wishes to have further information, he may re-open the case and require further evidence to be adduced.

He may appoint any time or place for proceeding with the reference.

In preparing the award, the arbitrator (if he is not a lawyer) should always instruct a solicitor, and should not prepare the award himself.

The arbitrator, even after he has undertaken the reference and heard the evidence, cannot be compelled to proceed with it; he may refuse to go on whenever he thinks fit.

It sometimes happens that the arbitrator wishes to have the opinion of some person of experience or special knowledge on some question of *fact*; the tendency of the decided cases is in favour of this right to obtain such information privately and without the knowledge of the parties; the better plan, however, is to have the person examined as a witness. On questions of *law* the arbitrator has always the right to consult a solicitor and adopt his opinion.

If two arbitrators are appointed with power to appoint a third, and they cannot agree, a Judge at Chambers has power to appoint the third arbitrator.

When the arbitrator has once made his award, his power over the matter is at an end.

In case no amount has been fixed by agreement with the arbitrator, he is entitled to be paid a reasonable sum for his services, and he has a lien on the award until he is paid; but he cannot sue for his fees unless there has been an *express* promise to pay them. The usual course is for the arbitrator to complete his award, and then (without stating to either side the decision contained in it) to give notice to both parties that it is ready to be delivered to either of them on payment of the fees, naming the amount, including the sum (if any) which may have been paid to the solicitor for preparing the award.

If the arbitrator makes any overcharge for his services, the person who pays the amount, in order to obtain the award, may recover back the excess.

If the party who is not ultimately liable to pay the fees pays the money to obtain the award, he can recover from the other party such sum as may be due from him.

SHIP'S PAPERS, ETC.

THE following is a list of documents comprised under the term of "ship's papers," generally carried on board British vessels :—

Certificate of Registry, which is the official voucher of her nationality, &c. In the case of countries possessing no register of shipping, this is represented by a *Passport*, *Sea Letter*, or *Sea Brief*, issued by the government, or by the civil authorities of the ship's port.

Builder's Contract, or the *Bill of Sale*.

Charter Party.

Muster Roll and *Shipping Articles* of the crew, and *Log Books*.

Customs Clearance Certificate of the last port called at.

Ship's Manifest, a detailed list and description of the cargo, shippers, and consignees, with an account of the freight corresponding with the Bills of Lading.

Bills of Lading, being duplicates of those given to the shippers.

In ports of the United Kingdom, the following papers and documents are necessary for clearance of ships proceeding to sea :—

Certificate of Registry, or *Measurement Certificate*, or *Declaration of Nationality*; and *Certificate*, whether for foreign or home trade.

Receipt for Light Dues outward, and in case of foreign vessels the *Pilotage Receipt* outward.

Passenger Lists and *Master's Bond*.

Ship's Content, containing particulars of cargo and voyage. Vessels having no cargo, except stores, may be cleared as in ballast.

Victualling Bill, the list of ship's stores, which when signed by the proper Customs officer releases the ship for sea.

Coasting Trade vessels must carry *Cargo Books*. The master must give an account of the cargo, &c., in duplicate to the collector, who will sign and return the original, and this is the *Pass* or *Transire*.

After clearance outwards, any Customs officer can board any ship and demand the ship's clearance, while the ship is within any port of the United Kingdom, or within four leagues of the coast thereof.

APPENDIX OF FORMS.

—:—

No. 1.—Agreement for Sale of Ship.

AGREEMENT made this day of 189.., BETWEEN A B, shipowner (hereinafter called "the vendor") of the one part, and C D, of shipowner (hereinafter called "the purchaser") of the other part. WHEREBY the vendor agrees to sell and the purchaser agrees to buy the vessel called the of the port of of the measurement of tons register, or thereabouts, now lying at for the sum of £..... to be paid as follows, viz., £..... as a deposit on the signing hereof, £..... cash on the day hereinafter appointed for completion of the purchase, £..... by [approved] bill of exchange at months from the said day appointed for settlement, and the sum of £..... by The purchase to be completed on the day of next, at the office of at at which time and place the purchaser shall pay the amount of cash hereinbefore agreed to be paid, or such part thereof as shall then remain unpaid, and he shall also deliver to the vendor the said bills of exchange representing the remainder of the said purchase money, and the vendor shall thereupon execute and deliver to the purchaser a bill of sale of the said ship (such bill of sale to be prepared by and at the cost of the purchaser in the usual form). Immediately after completion of the purchase, the said ship, with what belongs to her, shall be delivered according to the inventory now produced by the vendor, and the said ship, together with her stores, shall be taken with all faults as they now lie, without any allowance or abatement. But in case the purchaser shall make default in settling for the said ship, on the terms hereinbefore provided, for the space of fourteen days after the day hereinbefore specified for completion of the purchase, the said deposit money shall (unless any delay is caused by the vendor) be forfeited for the sole use of the vendor, who shall be at liberty to resell the said ship either by public or private sale, and the deficiency, if any, on such resale shall be made good by the purchaser, who shall be responsible for risks of every description subsequent to the present purchase, and for all charges that may be incurred in consequence of non-compliance with this agreement, and neither the broker nor any of the present vendors, his or their executors, administrators, or assigns, shall be in anywise accountable or liable to have any action whatsoever brought against them, or any of them, for the said deposit money paid and forfeited as aforesaid. The ship is to be at the risk of the purchaser immediately after he is put in possession of her. WITNESS the hands of the said parties the day and year first above written.

No. 2.—Navigation Agreement, Appointing Ship's-Husband, &c.

AGREEMENT made this day of 189 . . , BETWEEN A B, of shipowner, of the first part, C D, of shipowner, of the second part, and E F, of shipowner, of the third part. WHEREAS the said parties hereto (hereinafter called "the co-owners," which term shall include their executors and administrators), being joint-owners of the ship of the port of have mutually agreed that (address and occupation) (hereinafter referred to as "the ship's-husband") shall be the ship's-husband for the said vessel, and for the more satisfactory management thereof they have agreed together as hereinafter appearing.

NOW THIS AGREEMENT WITNESSETH that in pursuance of the premises each co-owner hereby agrees with the other co-owners as follows :—

1. The ship's-husband shall have the sole management of the said ship in all matters relating to her employment (subject to the conditions hereinafter mentioned) and shall have full power from time to time to engage such person as master as he may think proper, and such appointment at his absolute discretion to revoke, and he shall have power from time to time to take such proceedings as he may think fit, to obtain possession of the ship and her certificate of registry from any master whose appointment he may have revoked, and he shall be entitled to charge all proper disbursements in managing the ship, and shall be entitled to receive and enforce the payment and delivery to him of all moneys and securities receivable on account of the ship, and shall pay all sums payable on account of the ship.

2. The ship shall be employed in such lawful trades as the ship's-husband may consider to be most beneficial.

3. The ship's-husband shall insure on the ship and her freight, such sums as may from time to time be agreed on in the name of the co-owners, or otherwise, and in the absence of any specific arrangement as to the amount to be insured, then the ship shall be insured for the full value thereof, and the freight shall be insured in such amount as the ship's-husband shall think fit for the benefit of all the co-owners, and the cost of the insurance shall be charged to the shares of the co-owners respectively, in the earnings of the said vessel.

4. The ship's-husband shall keep true accounts of all charter-parties, freights, profits, disbursements, and business of the ship, and of all moneys and remittances, which shall grow due, or be paid, or received on account of the ship, in books to be kept for that purpose, which shall be regularly posted up, and each of the co-owners shall, at all reasonable times, have liberty to inspect and take copies from such accounts, and the vouchers relating thereto.

5. The ship's-husband shall receive for his trouble in managing the ship [the annual sum of £....., or, a commission of per cent. on the gross earnings of the ship] which he is hereby authorised to charge against the ship.

6. An account of every voyage shall be written in a book, and shall be signed by each of the co-owners, or his agent, and, after being so signed, the book shall be left in the custody of the ship's-husband, and each of the co-owners shall be bound by every such account, unless some manifest error shall be found therein, and signified to the several co-owners within six months after the date of such account, in which case (but not otherwise) such error shall be rectified.

7. The ship's-husband shall within days next after the receipt of the freight, on the termination of every voyage, make out a particular account of all profits of the ship, and the net balance shown by such account shall then be divided between the co-owners according to their respective shares in the ship, but a sum not exceeding £..... shall be left in the hands of the ship's-husband to meet the future working expenses of the ship.

8. In case of a total loss of the ship, the ship's-husband shall immediately upon the receipt of any money insured upon the ship, or her freight, or otherwise, pay to each of the co-owners his share of such insurance moneys, excepting a sufficient sum to meet future claims in respect of insurance premiums or other debts relating to the ship.

9. If the ship shall be unsuccessful on any voyage, or shall meet with such losses or damage that her gains are not equal to her losses on such voyage, then each of the co-owners shall within days after settling and adjusting the accounts by which such losses shall appear, pay his proportionate part of such losses to the ship's-husband.

10. None of the co-owners shall, during the continuance of this agreement, purchase cargo or merchandise, to be carried in the ship on his own account, without the consent in writing of his other co-owners.

11. Any of the co-owners may recover by action any sum which may at any time be due to him from the others, or other of them, on account of the ship, on anything arising out of this co-ownership, notwithstanding anything herein contained to the contrary.

12. In case any of the co-owners shall wish to sell his shares in the vessel, or any part thereof, the same shall be offered to the other co-owners at a price to be named in writing by the co-owner who desires to sell his share, and such offer shall be sent by post to or left at the residence of each of the remaining owners, and such remaining owners, or any one or more of them, shall have the right to purchase such share at such price, upon signifying such intention within days after such notice shall have been received as aforesaid, and such notice and acceptance shall amount to an agreement for the sale and purchase of the said share, but in case none of the remaining owners accept such offer within the said time, or if more than one of them offers to purchase the ship, or if any one of them requires her to be sold by auction, then the entirety of the vessel shall be publicly advertised for sale by the ship's-husband (notice of the time and place of sale being given by him to each of the co-owners), and shall be absolutely sold by public auction, after the expiration of fourteen days from the time prescribed for accepting such offer, subject to such conditions as are usual in the sale of ships, and

any of the said co-owners shall be at liberty to bid for and purchase the said vessel, and the co-owners shall, on receiving their shares of the purchase money, execute all necessary bills of sale of their respective shares in the ship to the purchaser or purchasers, and deliver up the possession of the ship accordingly, and the costs of such sale by auction shall be paid by the co-owners according to their respective shares in the ship.

[A stamp duty of 6d. is payable on this agreement.]

No. 3.—*Lloyd's Average Bond.*

AN AGREEMENT made this day of , 189 .. , BETWEEN master of the ship or vessel called the and the several persons whose names or firms are set and subscribed hereto, being respectively consignees of cargo on board the said ship of the other part

WHEREAS the said ship lately arrived in the port of on a voyage from and it is alleged that during such voyage she met with bad weather, and sustained damage and loss, and that sacrifices were made and expenditure incurred which may form a charge on the cargo, or some part thereof, or be the subject of a general average contribution, but the same cannot be immediately ascertained, and in the meantime it is desirable that the cargo should be delivered; NOW THEREFORE THESE PRESENTS WITNESS and the said master on his own behalf, and on behalf of his owners, in consideration of the agreement of the parties hereto of the second part hereinafter contained, hereby agrees with the respective parties hereto of the second part, that he will deliver to them respectively their respective consignments, on payment of the freight payable on delivery, if any, and the said parties hereto of the second part in consideration of the said agreement of the said master for themselves severally, and respectively, and not the one for the others of them, hereby agree with the said master that they will pay to the said master or the owners of the said ship the proper and respective proportion of any general average, or particular or other charges which may be chargeable upon their respective consignments, or to which the shippers or owners of such consignments may be liable in respect thereof to contribute to such damage, loss, sacrifice, or expenditure, and the said parties hereto of the second part, further promise and agree, forthwith to furnish to the captain or owner of the said ship a correct account and particulars of the value of the goods delivered to them respectively, in order that any such general average and other charges may be ascertained and adjusted in the usual manner.

The following addition to be made to the agreement in those cases which justify the shipowner in asking for a deposit.

And whereas at the request of the owner of the said ship the parties hereto of the second part have respectively deposited or agreed to deposit in the Bank of in the joint names of nominated on behalf of shipowners and nominated on behalf of

such depositors the sum of £..... per cent. on the amount of the estimated value of their respective interests. NOW IT IS HEREBY further agreed, that the sums so deposited by the said parties respectively shall be held as security for and upon trust for the payment to the parties entitled thereto, of the general average and particular charges payable by the said parties hereto of the second part respectively, as aforesaid, and subject thereto upon trust for the said depositors respectively.

IN WITNESS, &c.

[A stamp duty of 6d. is payable on this agreement.]

No. 4.—Agreement by Holder of Bill of Lading to indemnify Captain against all other Claims to the Goods.

AGREEMENT made this day of, 189.., BETWEEN A B and C D, of (hereinafter called the said merchants), of the first part, E F, captain of the vessel, of, now in the port of (hereinafter called the said captain), of the second part [and G H of (hereinafter called the guarantor) of the third part]. WHEREAS the said merchants are the holders of bills of lading, which have been endorsed to them, representing certain goods forming [a portion of] the cargo of the said vessel on her voyage which has just been completed. AND WHEREAS the said captain, having reason to believe that claims will be made on him by other persons in respect of the said goods, has refused to deliver the said goods, and the said merchants [and guarantor] have agreed to give the said captain the guarantee hereinafter contained, on his agreeing to deliver the goods to the said merchant. NOW THIS AGREEMENT WITNESSETH that the said captain hereby agrees to deliver to the said merchants the goods named in the said bills of lading, and in consideration of the premises the said merchants [and guarantor] hereby, jointly and severally, agree with the said captain, and also as a separate agreement with the owners of the said ship, that they or one of them, or the executors or administrators of them, or one of them, will hold the said captain and owners respectively harmless and indemnified against all claims which may be made in respect of the said goods by any other person, or persons, and will pay to the said captain, or owners, all damages, losses, costs, and expenses which they, or any, or either of them, may suffer, or pay in consequence of the said goods having been delivered to the said merchants. Witness the hands of the said parties.

[If it is not intended to obtain the signature of a surety, omit the words in italics.]

[Stamp duty, 6d.]

No. 5.—Agreement by Consignee and Surety to pay Freight.

AGREEMENT made this day of, 189.., BETWEEN A B, master mariner of, on behalf of the owners of the ship, of the first part, C D, the owner or consignee of certain goods now on board of the said ship, and who is hereinafter called the consignee,

of the second part, and E F, of, who is hereinafter called the guarantor, of the third part. WHEREAS certain goods are now on board of the said ship, and in the possession of the captain thereof, subject to a lien for freight, demurrage, and other charges, according to the charter-party for the voyage of the said ship, which has just been completed. AND WHEREAS the said consignee has requested the captain of the said ship to deliver the said goods to him before payment of the said lien, which the said captain has agreed to do upon the said consignee and the said guarantor entering into the agreement hereinafter contained. Now THIS AGREEMENT WITNESSETH that the said A B hereby agrees to allow the said consignee to receive, from the said ship, the said goods, and in consideration thereof the said consignee, and the said guarantor, hereby jointly and severally agree with the said A B, and also (as a separate agreement) with the owners of the said ship, that they, or one of them (or the executors, or administrators of them, or one of them), will pay to the said A B, or the owners, of the said ship, the amount of freight, demurrage (if any), and all other charges (if any), which the said A B, or owners of the said ship, are now entitled to receive in respect of the said goods.

Witness.

[Stamp duty, 6d.]

No. 6.—Notice of Stoppage for Freight, &c., (pursuant to the Merchant Shipping Act).

To A B, Wharfinger (or Warehouse Owner).

I HEREBY give you notice to detain the undermentioned goods now landed, or about to be landed, from the ship until the freight and other charges to which the same are liable (as specified below) shall be paid, and, if you fail to do so, you will be liable to make good any loss thereby occasioned.

Dated this day of, 189...

(Signed) C. D.

Master (or "Owner") of the said Ship.

Marks (if any).	Quantity of Goods.	Description of Goods.	Amount of Freight, &c., Claimed.

N.B.—On delivering this notice a receipt should, therefore, be obtained, signed by the wharfinger, or warehouse owner, or their clerk or agent, on an exact copy of this notice.

No. 7.—Notice to Wharfinger to sell Cargo for Freight.

To A B, Wharfinger.

I, the undersigned C D, owner of the ship, hereby give you notice that the goods which were landed from my said ship, on or about the day of last (and were delivered into your custody subject to a lien for freight and other charges due to the owners of the said ship), have now been in your custody for the space of ninety days, as the said lien on the said goods has not been discharged, I hereby give you notice that I require you to sell by public auction the said goods, or so much thereof as may be necessary to pay the amount due to me for freight and other charges in respect of the said goods, and also the expenses of sale, and all customs or excise duties owing in respect of such goods, and the rent, rates, and other charges, due to you in respect of such goods.

Dated this day of, 189...

(Signed)

Owner of the said Ship.

No. 8.—Power of Attorney appointing Agent to act Abroad.

KNOW ALL MEN by these presents, that I, A B, of, in the county of, in England, shipowner, do hereby make, constitute, and appoint C D, and E F, of, in the [kingdom] of, merchants, my true and lawful attorney, and attorneys, agent, and agents, jointly, and each of them separately, for me, and in my name, to [here insert the powers which it is wished to give to the agent, for example—"Take upon himself, or themselves, at the port of, or elsewhere in, the entire management of the said ship or vessel, of which I am the owner, and to enter into any charter-parties, or other contracts for the employment of the said ship, and to execute, or cause to be executed, any repairs that may be necessary to the said ship, and to enter into any contracts for the same, and generally to act in the management of the said ship in my name, as if I was myself present, and in their or his absolute discretion to dismiss the master of the said vessel, and to appoint another shipmaster in his stead"]. And I authorise my said attorney, and attorneys, and each of them, to collect, sue for, and receive from G H, and every other person liable in that behalf in the said [kingdom] of, all sums of money, debts, property, and effects, now owing, or which hereafter may be owing, or belonging to me, and to settle and adjust all accounts, disputes, and demands respecting the same, and in case of need to leave any disputes to reference, to appoint an arbitrator or arbitrators, to sign, or execute any agreement of reference, and to compound with any debtors, and in my name to sign receipts, or other sufficient discharges. And for me, and in my name, as occasion may require, to commence and prosecute any actions, suits, or other proceedings at Law or in Equity, and by all lawful means to attack, seize, or arrest the persons,

moneys, goods, debts, estate, or effects of the said G H, and any other debtor or debtors, person or persons, liable in that behalf, wheresoever the same may be, according to the laws or customs of the place or places; and to proceed therein in every respect, so as to obtain effectual payment and delivery thereof. And to act in the premises from time to time as effectually as if I was personally present and did the same. And (as may be found expedient) to prosecute any such proceedings to judgment, or to suspend, or put an end thereto, in any stage. And to defend any action or actions, suit or suits, respecting the premises. And I hereby give to my said attorney *and attorneys jointly, or either of them separately*, full power to nominate and appoint one or more substitute or substitutes, attorney or attorneys, agent or agents, under them or him, for all, or any of the purposes aforesaid, and the same to revoke, and again reappoint, and another, or others, in their or his stead to depute, which nomination or substitution shall continue, notwithstanding my said attorney *or attorneys* should die or leave aforesaid. And I hereby give to my said attorney, *and attorneys jointly, or either of them separately*, and to his *or their* substitute or substitutes, my full authority in the premises, hereby confirming whatsoever shall be lawfully done by virtue thereof. IN WITNESS whereof I have hereunto set my hand and seal at aforesaid, this day of, in the year of Our Lord one thousand eight hundred and ninety

Signed, sealed, and delivered }
in the presence of }

[If only one person is appointed to act under the Power of Attorney, the words in italics should be omitted. It will, however, generally be found more expedient to appoint two persons if possible.]

[Stamp duty, 10s.]

No. 9.—Agreement to refer Disputes to Arbitration.

AGREEMENT made this day of, 189.., BETWEEN A B, of, of the one part, and C D, of, of the other part. WHEREAS disputes have arisen between the said parties hereto respecting [here state concisely the nature of the dispute which is to be referred to arbitration] it is hereby agreed to refer the said dispute [and all matters in difference between them] to the award and determination of and *and of such third arbitrator as the said two arbitrators shall, by writing under their hands, to be endorsed on this agreement before they proceed in this arbitration, appoint to act with them; or of any two of such three arbitrators, so as the arbitrators, or any two of them, make and publish an award in writing, duly signed, concerning the matters referred, ready to be delivered to the parties or either of them (or to their respective executors or administrators, if they or either of them should die before the award is made) before the expiration of [three] calendar months from the date hereof, or*

before any other day to which the arbitrators, *or any two of them*, shall by writing hereupon endorsed enlarge the time for making the said award. The costs of preparing this agreement, and of the reference and award shall [abide the event of the award]* and this submission may be made a rule of any division of the High Court of Justice at the instance of either of the parties hereto without notice to the other, and that [the witnesses shall be examined on oath]† the arbitrators, *or any two of them*, may proceed *ex parte*, in case either party after reasonable notice shall neglect to attend on the reference without having previously shown to the arbitrators, *or any two of them*, what the latter shall consider sufficient cause for omitting to attend. That each of the said parties shall produce before the arbitrators all documents under his control, which the arbitrators, *or any two of them*, may require relating to the matters referred. And the said parties shall do all other acts necessary to enable the arbitrators to make a just award. And the said parties, their executors and administrators, shall abide by and perform the said award. And none of them shall bring any action, or take any legal proceedings whatsoever against the arbitrators, *or any of them*, concerning the matters referred. IN WITNESS whereof the said parties have hereunto set their hands the day and year first above written.

[If only one arbitrator is appointed, the words in italics should be omitted.]

[Stamp duty, 8d.]

No. 10.—*Lloyd's Bottomry Bond.*

KNOW ALL MEN BY THESE PRESENTS that I, master of the ship, of the port of, of the burthen of tons or thereabouts, am held and firmly bound unto of in the sum of sterling British money, to be repaid to the said, his agent, attorney, executors, administrators, or assigns, for which payment I bind myself, my heirs, executors, and administrators, and also bind and hypothecate the said ship and the freight to become due in respect of the voyage after-mentioned and the cargo laden or to be laden on the said voyage firmly by these presents sealed with my seal. Dated this day of, 189..

WHEREAS the said ship lately arrived at in distress, [*having*

* If it is wished to leave the question of costs also to the arbitrator, omit these words in brackets, and insert "be in the discretion of the arbitrator."

† If the facts are not disputed, and it is wished to save expense by admitting them, these words in brackets can be omitted and the following substituted, "the statement of facts hereto annexed and signed by the said parties shall be admitted as evidence without further proof, and the arbitrators, *or any two of them*, may if *they*, or he, shall think fit, make *their* or his award without hearing either of the said parties or receiving further evidence.

sustained damages] in the course of a voyage from to laden with and being in want of repairs, supplies, and provisions to enable her to continue her said voyage: AND WHEREAS the said being without funds or credit at and urgently requiring the sum of to pay for the said repairs, supplies, and provisions, and to discharge the lawful and necessary disbursements of the ship at and to release her from her liabilities, and to enable her to continue her voyage, and having first duly communicated or attempted to communicate with the owners of the said ship and of the said cargo with a view to obtain funds from them, was compelled to apply for a loan upon bottomry of his ship, her cargo and freight: AND WHEREAS the said who is hereinafter called the said lender, proposed and agreed to advance upon such security the said sum of at a maritime premium of per cent. for the said voyage, and the said being unable to procure such advance in any quarter on more advantageous terms, accepted the said proposal [with the intervention and approval of the proper authorities at], and agreed so far as he lawfully could or might that the said security should have priority over all other claims on the said ship, freight, and goods, whether by himself or any other person: AND WHEREAS the said lender has duly advanced the said sum in pursuance of the said agreement. NOW THE CONDITION of the above obligation is such that if the said do with the said ship and cargo duly prosecute the said voyage without unnecessary delay or deviation and do within days after the arrival of the said ship or cargo at and before commencing to discharge or deliver her cargo there, pay or cause to be paid to the said lender or to his order or assigns the said sum of together with maritime premium thereon at the rate aforesaid, making in all the sum of such payment to be made at the exchange of for every British pound sterling, or if the said ship with the said cargo shall duly prosecute her said voyage without unnecessary delay or deviation, and shall be by perils of the sea lost in the course of such voyage, then this obligation shall be null and void, and the said shall be released from all liability in respect of the said sum of PROVIDED ALWAYS, and it is hereby agreed and declared that if the said ship shall by perils of the sea as aforesaid be lost or so much damaged as to be unable to complete her said voyage, then if any part of the said ship or cargo or of the said freight shall be saved or earned, the above security, so far as regards the property saved or freight earned shall remain in force, and the said lender or his assigns shall be at liberty forthwith to enforce the same against such property and freight: PROVIDED ALSO, and the said loan is made on the express condition, that the said lender doth not accept or take upon himself any risk or liability on the said voyage except such as is hereby expressly mentioned, and shall not be liable to contribute to or make good any general or particular average loss or expenditure or other charges of a

like nature which may happen to or be sustained by or incurred in respect of the said ship or her cargo or freight upon the said voyage in consequence of perils of the sea or otherwise.

Signed, sealed, and delivered by the said in the presence of

No. 11.—Lloyd's Respondentia Bond.

KNOW ALL MEN BY THESE PRESENTS that I, of , am held and firmly bound unto , of , in the sum of sterling British money, to be repaid to the said , his agent, attorney, executors, administrators, or assigns, for which payment I bind myself, my heirs, executors, and administrators, and also bind and hypothecate the cargo of laden or to be laden on board the ship for the voyage aforementioned firmly by these presents. Sealed with my seal. Dated this day of , 189.. .

WHEREAS the ship lately arrived at [in distress] in the course of a voyage from to with the above-named cargo, and the said vessel being found incapable of carrying on the said cargo the said determined in the interest of all parties concerned to forward the said cargo to its destination in the ship AND WHEREAS in order that the said cargo might be so forwarded it became necessary to provide funds to meet the expenses of discharging warehousing and reshipping the said cargo and other necessary disbursements on account of the said cargo, and (or) to discharge certain liabilities in respect of which the said cargo was subject to liens and to arrest and sale. AND WHEREAS the said being without funds or credit at and urgently requiring the sum of for the said purposes, and having first duly communicated with or attempted to communicate with the owners of the said cargo with a view to obtain funds from them, was compelled to apply for a loan upon respondentia: AND WHEREAS the said who is hereinafter called the said lender proposed and agreed to advance upon such security the said sum of at a maritime premium of per cent. for the said voyage, and the said being unable to procure such advance on more advantageous terms accepted the said proposal [with the intervention and approval of the proper authorities at] and agreed so far as he lawfully could or might that the said security should have priority over all other claims upon the said cargo, whether by himself or any other person: AND WHEREAS the said lender has duly advanced the said sum in pursuance of the said agreement: NOW THE CONDITION of the above obligation is such that if the said do use his best endeavours to forward or bring the said cargo to its destination without unnecessary delay or deviation, and do within days after the arrival

of the said cargo at and before the discharge or delivery of the said cargo shall be commenced, well and truly pay or cause to be paid to the said lender or to his order or assigns the said sum of together with the maritime premium thereon at the rate aforesaid, making in all the sum of such payment to be made at the exchange of for every British pound sterling, or if the said cargo shall be duly despatched and forwarded on the said voyage without unnecessary delay or deviation, and the said cargo shall by perils of the sea be lost in the course of such voyage, then the above-written obligation shall be null and void and the said shall be released from all liability in respect of the said sum of PROVIDED ALWAYS and it is hereby agreed and declared that if the said cargo shall in the course of the said voyage by perils of the sea as aforesaid be lost or so much damaged as that it cannot be carried to its said destination, then if any part thereof shall be saved the above security, so far as regards the property saved, shall remain in force, and the said lender or his assigns shall be at liberty forthwith to enforce the same against such property: PROVIDED ALSO, and the said loan is made upon the express condition, that the said lender does not accept or take upon himself any risk or liability on the said voyage except such as is hereby expressly mentioned, and shall not be liable to contribute to or make good any general or particular average loss or expenditure or other charges of a like nature which may happen to or be sustained by or incurred in respect of the said cargo or the said ship upon the said voyage in consequence of perils of the sea or otherwise.

Signed, sealed, and delivered by the said in the presence of

No. 12.—Lloyd's Standard Form of Salvage Agreement.

"NO CURE—NO PAY."

On board the

Dated 189...

IT IS HEREBY AGREED between captain of the (afterwards called "the master") and (afterwards called "the contractor") as follows:—

1. The contractor agrees to use his best endeavours to save the and her cargo and take her into or other place to be hereafter agreed with the master providing at his own risk all proper steam and other assistance and labour. The services shall be rendered and accepted as salvage services upon the principle of "no cure—no pay" and the contractor's remuneration in the event of success shall be £....., that being the sum demanded by him unless this sum shall afterwards be objected to as hereinafter mentioned as unreasonable in which case the remuneration shall

be fixed by the Committee of Lloyd's as arbitrators or by an arbitrator to be appointed by them and the statutory provisions as to arbitration in force in England shall apply and the said sum of £..... may subject as hereinafter mentioned be maintained reduced or increased by the arbitrators or arbitrator, who shall have power to call for receive and act upon any such evidence whether oral or documentary and whether strictly admissible as evidence or not as they or he may think fit. The Committee of Lloyd's if they act as arbitrators may charge such arbitration fee as they think reasonable and may in any event charge a reasonable fee for their services in connection with the arbitration and any other arbitrator shall receive such fee as he may be entitled to, such fees in either case to be payable by such of the parties as the award may direct. Any other difference arising out of this agreement or the operations thereunder shall be referred to arbitration in the same way.

2. The contractor may make reasonable use of the vessel's gear anchors chains and other appurtenances during and for the purpose of the operations free of costs but shall not unnecessarily damage abandon or sacrifice the same or any other of the property.

3. Notwithstanding anything hereinbefore contained should the operations be only partially successful without any negligence or want of ordinary skill and care on the part of the contractor or of any person by him employed in the operations, and any portion of the vessel's cargo or stores be saved by the contractor, he shall be entitled to reasonable remuneration not exceeding a sum equal to £..... per cent. of the estimated value of the property saved at or if the property saved shall be sold there then not exceeding the like percentage of the net proceeds of such sale after deducting all expenses and customs duties or other imposts paid or incurred thereon but he shall not be entitled to any further remuneration reimbursement or compensation whatsoever and such reasonable remuneration shall be fixed in case of difference by arbitration in manner aforesaid.

4. The contractor engages not to arrest or detain the vessel or cargo or property saved except in the event of any attempt being made to remove the same from without his consent before the said sum of £..... or the said maximum remuneration mentioned in Clause 3 (as the case may be) has been paid to him or deposited in cash with the Committee of Lloyd's to abide the result of the arbitration hereinbefore mentioned or a draft given by the master with the authority of the Committee of Lloyd's as provided in Clause 6. Subject to this agreement the contractor shall have a lien on the property saved for his remuneration.

5. In case of deposit as aforesaid the Committee of Lloyd's shall forthwith upon the publication of the award pay to the contractor out of the cash deposit the amount awarded to him, and shall pay the balance (if any) of the deposit to the depositors whose receipts shall be a good discharge for the same. If the award increases the remuneration the parties mentioned in Clause 9 shall pay the difference to the contractor.

6. Except as hereinafter provided the master is not authorized to give and the contractor shall not demand or take any draft or order for or on account of his remuneration. Nevertheless the Committee of Lloyd's shall have discretion to authorize the contractor to take the master's draft on the owners of the vessel for the whole or part of the said salvage remuneration payable at 80 days date and shall not incur any responsibility to any party hereto by so doing and in such case only the master may draw and the contractor may take such draft and the arbitration (if any) shall not be proceeded with unless the Committee otherwise direct until such draft has been paid by the owners. Should the draft or the sum paid in any other manner exceed the sum awarded, the contractor shall forthwith pay the excess to the Committee of Lloyd's for the parties who have paid the draft, as if the original payment had been made to avoid detention of property and without prejudice.

7. The Committee of Lloyd's may in their discretion out of any cash deposit pay to the contractor on account before the publication of the award such sum as they may think reasonable on account of any out-of-pocket expenses incurred by him in connection with the services.

8. Any dispute between any of the parties interested in the property salvaged as to the proportions in which they are to contribute to the cash deposit or to the sum awarded or otherwise shall be referred to and determined by the Committee of Lloyd's whose decision shall be final and is to be complied with forthwith.

9. The master enters into this agreement as agent for the vessel and cargo and the respective owners thereof and binds each (but not the one for the other or himself personally) to the due performance thereof.

10. The only parties entitled to object to the remuneration claimed by the contractor as aforesaid and to claim arbitration shall be (1) The owners of the ship (2) Such other persons together interested as owners and (or) underwriters of any part not being less than one-fourth of the property saved as the Committee of Lloyd's in their uncontrolled discretion may authorize by reason of the substantial character of their interest to object (3) The Committee of Lloyd's—Any such objection and the award upon the arbitration following thereon shall be binding not only upon the objectors but upon all concerned provided always that the arbitrator or arbitrators may in case of objection by some only of the parties interested order the costs to be paid by the objectors only, provided also that if the Committee of Lloyd's in their public capacity be objectors they shall appoint an independent arbitrator who shall have power to maintain or reduce but, if the Committee be the sole objectors, not to increase, the amount of the remuneration in question.

11. If the objecting parties or the contractor respectively desire to be heard before or to adduce evidence before the arbitrators or arbitrator they shall give notice to that effect to the secretary of Lloyd's and shall respectively nominate a person or persons not more than two in number in London

to represent them for all the purposes of the reference and failing such notice and nomination being given within 14 days or such longer period as the said Committee of Lloyd's may direct after the notice of objection the arbitrators or arbitrator may proceed as if the parties failing to give the same had renounced their right to appear or adduce evidence.

12. Notices of objection shall be given to the secretary of Lloyd's within 80 days after the publication in "Lloyd's List" of a notice by the Committee to the effect that notices of objection must be given within that time. The Committee shall insert such notice as soon as in their opinion sufficient details of the occurrences in question have arrived in this country to enable the parties interested to judge whether the remuneration claimed is reasonable or otherwise.

No. 13.—Salvage Bond,

Under Section 558 of the Merchant Shipping Act, 1894.

Whereas certain salvage services are alleged to have been rendered by the vessel , commander, to the merchant vessel , master, belonging to , freighted by , and to the cargo therein, consisting of

And whereas the said vessel and cargo have been brought into the port of , and a statement of the salvage claim has been sent to , and he has fixed the amount to be inserted in this bond at the sum of

Now I, the said , do hereby, in pursuance of the Merchant Shipping Act, 1894, bind the several owners for the time being of the said vessel and of the cargo therein and of the freight payable in respect of that cargo and their respective heirs, executors, and administrators, to pay among them such sum not exceeding the said sum of , in such proportions and to such persons as or the High Court in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this day of , 189...

Signed, sealed, and delivered, by the said in the presence of

[N.B.—Any of the particulars not known, or not required, by reason of the claim being only against the cargo, &c., may be omitted.]

A DIGEST OF THE MERCHANT SHIPPING ACT, 1894.

[57 and 58 Vict., cap. 60.]

THE Merchant Shipping Act, 1894, the longest on the Statute Book, consists of 14 Parts, 748 Sections, and 22 Schedules, and repeals 33 entire Acts dealing with shipping matters, and parts of 15 others. It is simply a codification and consolidation of these Acts, and by it order has been evolved out of chaos, to some extent, though even now it cannot be said that the Act comprehensively embraces all legislation relating to shipping, *e.g.*, the Reserve Volunteer Force of Seamen Act, the Officers of Royal Naval Reserve Act, the Chain Cables and Anchors Acts, and the Bills of Lading Act, are all omitted, but are referred to in this work.

However, the new Act renders it much easier for owners and masters to refer to and understand what was formerly concealed in so many different Acts, though the lawyer will still need the aid of the latter in its interpretation. It cannot be expected that this Act will render further legislation unnecessary, however desirable that may be; there is no finality in amendments, additions, and alterations, in the work of our legislators.

The following digest has been so prepared as to compress all the provisions of the Act into the smallest compass compatible with clearness.

The Board of Trade is the department appointed to superintend all matters relating to merchant ships and seamen, and to carry into execution all Acts of Parliament affecting them. Its powers are defined in Sections 713 to 730.

Definitions.

Section 742 of the Act defines the meaning of the following words and expressions used in it:—

Vessel includes any ship or boat, or any other description of vessel used in navigation.

Ship includes every description of vessel not propelled by oars.

Foreign-going Ship implies a vessel going between a place in the United Kingdom and another place outside the limits of the United Kingdom and of the continent of Europe between the River Elbe and Brest inclusive.

Home-trade Ship implies a vessel plying within the above limits.

Master includes every person having command or charge of any ship, but not the pilot.

Seaman includes every person employed in any capacity on board ship, except masters, indentured apprentices, and pilots.

Lighthouse includes any floating or other light for the guidance of ships, also fog signals.

Buoys and Beacons include all other marks and signs of the sea.

By Section 743 any provisions of the Act applying to steamships shall apply to ships propelled by *Electricity* or other mechanical power, with such modifications as the Board of Trade may prescribe.

Section 744 enacts that ships engaged in the whale, seal, walrus, or Newfoundland cod fisheries, are deemed to be foreign-going ships, and not fishing boats, with the exception of ships belonging to ports in Canada and Newfoundland employed in the said cod fishery.

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SCHEDULES.

PART I.—OWNERSHIP, REGISTRATION, AND MEASUREMENT.

Part I. of the Act, embracing Sections 1 to 91, applies to the whole of Her Majesty's dominions, and wherever Her Majesty has jurisdiction. It deals with the Ownership, Registry, and Measurement of British ships.

Ownership.

1. A British ship must belong wholly (a) to natural-born British subjects, or (b) to naturalized persons, or (c) to denizens not having afterwards taken an oath of allegiance to, or otherwise become a citizen or subject of, a foreign sovereign or state, and is resident during ownership in Her Majesty's dominions, or is partner in a firm carrying on business in Her Majesty's dominions; or (d) to bodies corporate with their principal place of business in those dominions.

Registration.

2. Every British ship (unless exempt) must be registered, and may be detained until the certificate of registry is produced.

3. *Exemptions.*—Ships exempt from registry are (1.) those not exceeding 15 tons burden employed solely in navigating the rivers or on the coasts of the United Kingdom, or on those of some British possession where the managing owners reside; and (2.) fishing or coasting vessels not exceeding 30 tons burden, and not having a whole or fixed deck, employed solely on the coasts of Newfoundland and in the Gulf of St. Lawrence.

4. The *Registrar*, or person appointed to register British ships, (a) at any port in the United Kingdom is the chief officer of customs; (b) in the Channel Islands, the same officers together with the governor; (c) in Malta and Gibraltar, the governor; (d) at Calcutta, Bombay, and Madras, the port officer; and (e) at any other British port, the chief officer of customs, the governor, or any officer appointed by him. (*See, also, s. 88*).

A registrar is not liable to damages or otherwise for loss accruing to any person in consequence of his official acts or defaults, unless such loss has happened through his neglect or wilful act.

5. The registrar keeps a *Register Book* containing particulars in accordance with the following provisions:—The property in a British ship is divided for the purposes of registry into 64 shares, and no person shall be registered as owner of any fractional part of a share. Not more than 64 persons can be registered as owners at one time. Any number of persons not exceeding five may be registered as joint owners of a ship or of a share or shares therein. Joint owners are considered as one person for the purpose of registry, and cannot transfer their joint share in severalty. A body corporate may be registered by its corporate name.

6. Before registry the vessel must be *surveyed* and her *tonnage* ascertained, the surveyor giving a formal certificate of the ship's tonnage, build, &c., for delivery to the registrar.

7. *Marking of Ship*.—Before registry (a) the name shall be marked on each bow, and the name and port of registry on the stern, in white or yellow letters (not less than 4 inches in length) on a dark ground, or black letters on a light ground. (b) The official number and registered tonnage shall be cut on her main beam. (c) A scale of feet, denoting her draught, shall be marked on each side of the stem and stern-post, in Roman capital letters or in figures not less than 6 inches long, the lower edge of which coincides with the given draught, such marks being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may approve.

If the scale of feet is inaccurate so as to mislead, the owner is liable to a penalty of £100; or if the said names or marks be concealed, removed, altered, or defaced, or are permitted so to be, except for the purpose of avoiding capture by an enemy, the owner or master is liable to a penalty of £100, and the ship may be detained. (*See, also, s. 595*).

The above provisions do not apply to fishing boats duly registered, lettered, and numbered, according to the Act.

8. *Application for registry* must be made by the person, or one or more of the persons, requiring to be registered as the owner, or by his or their agent, authorised in writing, or under the common seal in case of a corporation.

9. *Declaration of Ownership* must be made before registry, on the prescribed form, stating the necessary qualifications; also the time and place of building, if known, and if condemned particulars thereof; the master's name; the number of shares held by the applicant; and a declaration that no unqualified person has any interest in the ship.

10. *On the First Registry* of a *British-built* ship, in addition to the declaration of ownership, the *builder's certificate* must be produced, and any bill of sale in favour of the applicant. If *foreign-built*, the same particulars must be produced, if possible, otherwise the bill of sale suffices. If a condemned vessel, an official copy of the condemnation must be produced. If the builder willfully makes a false statement in his certificate he is liable to a fine of £100.

11. *Entry on Register*.—When the above provisions have been complied with, the registrar will enter in the register book the name of the ship, her port of registry, and details of her build, origin, &c., and the names and respective interests of the owners.

12. The registrar will retain the documents enumerated in s. 10.

13. *The port* where a ship is registered shall be considered her port of registry, or to which she belongs.

14. *A Certificate of Registry* is then granted by the registrar, in the prescribed form.

Certificate of Registry.

15. This certificate is for the lawful navigation of the ship, and cannot be detained for any title, lien, charge, or interest; and its recovery can be summarily enforced before a magistrate or qualified Court, who, if it be

not recovered, will grant a certificate of its loss. If the holder, however, refuses to deliver it up without reasonable cause he is liable to a penalty of £100, and proceedings may be taken as in the case of a lost certificate.

16. If a master or owner uses a certificate not legally granted, he is guilty of a misdemeanour, and the ship is liable to forfeiture.

17. The registrar may, with the approval of the Commissioners of Customs, grant a new certificate on the delivery to him of the old one.

18. *Loss of Certificate.*—The registrar must grant a new certificate, if the original be mislaid, lost, or destroyed. If away from her port, the master must apply to the first British registrar or consular officer available, and on making a declaration of the circumstances a *provisional certificate* will be granted. Within 10 days after her arrival at her port of discharge in the United Kingdom, British possession, or foreign port of registry, according to her port of registry, the provisional certificate must be delivered to the registrar of her port of registry under a penalty of £50, and the registrar will grant a new certificate.

19. *A Change of Master*, occurring from any cause, must be endorsed on the certificate of registry by the president of a Naval Court, the judge of a Court of Inquiry, the registrar, or consular officer, as the case may be, a report of the change being forwarded to the Registrar-General of Shipping and Seamen. Without this endorsement, any officer of Customs may refuse to admit the person claiming to act as master.

20. *Change of Ownership* must also be endorsed on the certificate by the registrar.

21. When a ship is lost, or ceases to be a British ship, the owners must (under a penalty of £100) inform the registrar of her port; and the master, if the certificate of registry be not lost or destroyed, must (under a penalty of £100) at once deliver it up to the registrar or British consular officer first available, who must forward it to the registrar of her port of registry.

22. *A Foreign Ship*, lying at a foreign port, becoming the property of British owners, the British consular officer there may grant a *provisional certificate*, stating her name, time and place, names of the purchasers and her master, with particulars of her tonnage, build, &c., forwarding a copy to the Registrar-General. This certificate remains in force for a period of six months, or until arrival at a port of registry.

23. Under special circumstances, the Commissioners of Customs or the governor of a British possession may grant a *temporary pass* from one British port to another, in lieu of a certificate of registry.

Transfers and Transmissions.

24. Ships or shares therein are transferred by *Bill of Sale* in the prescribed form (Schedule I.), or as near thereto as circumstances permit, and the transferor's execution must be attested by one witness at least.

25. *Declaration of Transfer* in the form prescribed must be made by the transferees, whether individuals or bodies corporate, before they can

entitled to be registered as owners. This declaration of ownership must state the qualifications for ownership, and that no unqualified person has any interest in the ship.

26. Registry of Transfer.—Bills of Sale must be registered by the registrar of the port of registry, in the order of their production to him, and they must be accompanied by the declaration of transfer.

27. Transmission.—Where a qualified person becomes possessor of a ship or share by transmission, he must sign a *Declaration of Transmission* in the prescribed form, similar to a declaration of transfer (s. 25), with particulars of the manner in which the property has been transmitted.

If by *Marriage* of the female owner, the property passes to another, the declaration must be accompanied by a copy of the marriage certificate, and shall declare her identity.

If consequent on *Bankruptcy*, the declaration must be accompanied by proof of the title of the persons claiming.

If consequent on *Death*, the declaration must be accompanied by the probate or other instrument of representation, or an official extract therefrom.

The registrar shall then enter the names of the new owners in the register book.

28. If on death, marriage, bankruptcy, or otherwise, of an owner the property in a British ship devolves on any unqualified person, such person may apply to one of the superior Courts to direct a sale and distribution of the proceeds. Such application must be made within four weeks, or within such further time (not exceeding one year) as the Courts allow, otherwise the property will be forfeited to the Crown.

29. The Court will empower some person to act as transferrer.

30. On application of any interested person, the Courts may prohibit, for a time specified, any person dealing with a ship, or shares, and the registrar of her port on being served with any such order shall obey the same.

Mortgages.

31. A registered ship, or share therein, may be mortgaged by an instrument in a prescribed form (Schedule I.) or as near thereto as circumstances permit, and such instrument, on production to the registrar, shall be recorded in the register book. Mortgages are registered according to the exact time of their production to the registrar.

32. On the production of a mortgage deed with formal endorsed receipt of the money lent, an entry of discharge is made in the register book.

33. Where there are several mortgages, priority of registration gives the prior right.

34. A mortgagee is not deemed an owner, except to avail himself of his security.

35. Every registered mortgagee has power to sell his security, but subsequent mortgagees can only do so with the concurrence of every prior mortgagee.

36. Mortgagees' rights are not affected by any subsequent act of bankruptcy of the mortgagors.

37. Registered mortgagees can transfer in a prescribed form (Schedule I.) endorsed on the mortgage. This transfer is registered.

38. On transmission of a mortgagee's interest by death, bankruptcy, or marriage, a declaration by the person entitled must be made, and his right authenticated (as in s. 27) and then the registrar will enter the new mortgagee's name on the register.

Certificates of Mortgage and Sale.

39. The registrar shall, on the application of a registered owner, grant a certificate for mortgage or sale of any ship or share abroad, in the forms prescribed.

40. The applicant must state the name of the person to exercise the power of sale or mortgage, together with the maximum amount of mortgage money or the minimum sale price, if fixed, the specific place (if any), for exercise of the power, and the limit of time for its exercise. The owner can then neither sell nor mortgage his ship or share until such certificate is returned to the registrar and cancelled, and such return is duly registered.

41. Such certificates are only to be granted for places out of the country in which the ship is registered.

42. Certificates must contain particulars required by s. 40, and a list of any mortgages or certificates already registered.

43. *Certificates of Mortgage* must be endorsed by the registrar in case of mortgages made thereunder, and such mortgages have a prior right to other mortgages made subsequent to the date of entry of the certificate.

44. *Certificate of Sale* is only granted for the sale of an entire ship, and the purchaser must register the ship anew, delivering the bill of sale and certificate of sale and registry to the registrar. If the purchaser is not qualified to own a British ship, the said certificates must be delivered up, or in default the seller and his agent are each liable to a penalty of £100.

45. If the certificate of sale or mortgage be lost or obliterated, the registrar, upon production of satisfactory proof of loss, &c., shall grant a fresh certificate, or make necessary entries of the facts in the register book, with the sanction of the Commissioners of Customs.

46. If a power has been given for sale or mortgage at a specific place or places, the owner may revoke it by an instrument in prescribed form, to be handed to the registrar, who apprises the registrar or consular officer at such specific place or places of such revocation.

Name of Ship.

47. A British ship shall not be described by any name other than that by which she is for the time being registered. Alteration of name must first be formally approved by the Board of Trade, and then the alteration must forthwith be made in the register book, the certificate of registry, and on the bows and stern of the ship. When an unauthorised alteration has been

made in a ship's name, the Board may alter back to the right name, and no ship ceasing to be registered shall be again registered in any other than the original name without express permission. A foreign ship which becomes British must be registered in her foreign name unless altered with permission of the Board of Trade. Any person disobeying these provisions shall incur a penalty not exceeding £100, and the ships may be detained for compliance with such provisions.

48. When a ship is so altered as not to correspond with the registered description, the first registrar available shall, on application and receiving the surveyor's certificate, alter the register, or order the ship to be registered anew. If this be not done, the ship shall no longer be recognised as a British ship.

49. The registrar shall either endorse the alterations on the original certificate, or retain it and grant a new one, in either case giving notice to the registrar of the port of registry.

50. Or he may grant a *provisional endorsement or certificate*, valid as in s. 18.

51. On a change of ownership, the registrar of her port may register the ship anew, if the owners so require.

52. *On Registry anew*, the registrar shall proceed as in first registry. The old certificate must be delivered up.

53. The registry of a ship may be transferred from one port to another if all persons interested and registered make a written declaration of their desire for such transfer. The old certificate of registry shall be delivered either to the registrar of the old or new port of registry, and the registrar of the old port shall forward full particulars to the registrar of the new port, who shall enter the same in his register book, and grant a new certificate; from which time the ship shall be deemed to belong to the new port, and the name of the new port shall be painted on the ship's stern. Such transfer shall not affect the rights of any owners or mortgagees.

54. A wrecked or abandoned ship cannot be re-registered until she has been surveyed and certified to be seaworthy.

Miscellaneous Provisions as to Registry.

55. *An Incapacitated Person*, by reason of infancy, lunacy, &c., and having any interest in a ship, is represented by his guardian, committee, or person appointed by the law, who may make all necessary declarations and do all necessary acts.

56. No notice of any *Trust* shall be entered in the register book, the registered owners having full power to dispose of their ship or shares.

57. *Equities, or Beneficial Interests.*—Subject to the provisions of registration and ownership, interests arising under contract, or other equitable interests may be enforced by or against owners and mortgagees of ships exactly as in respect of any other personal property.

58. Any person beneficially interested in a ship, though he is not registered, is subject to the same statutory penalties as the registered owner.

59. The name and address of the *Managing Owner*, or of the *Ship's Husband*, or other person entrusted with the ship's management, must be registered at the custom house of the port of registry in the United Kingdom, in default of which the owners are liable to a penalty of £100 a voyage.

60. The registrar has power, in certain cases of difficulty, to dispense with declarations and other evidence.

61. *Declarations* required by Part I. of the Act, must be made before a registrar, justice of the peace, commissioner for oaths, or British consular officer.

62. Provides for the application of the authorised fees.

63. Registrars must make periodical returns to the Registrar-General of matters on his register relating to registry, &c., of ships.

64. On application to the registrar at a reasonable time, any person may inspect any register book on payment of a fee not exceeding one shilling.

The register book, certificates of registry with any endorsement or not, and the specified declarations are admissible in evidence.

65. The Commissioners of Customs and the Board of Trade provide the forms of certificates, declarations, &c., free of charge, or for a small sum, and may alter forms and issue any necessary instructions as to the registry of ships. If any unauthorised form be used, the registrar shall not be required to receive and register them.

66. Any person who forges or fraudulently alters any of the before-named shipping documents, or any official entry or endorsement on the same, is guilty of a felony.

67. Any person wilfully making a false declaration or statement to a registrar is guilty of a misdemeanour, and if with regard to the declaration of qualification is in addition liable to forfeiture of his interest.

National Character and Flag.

68. No clearance or transire shall be granted to any ship until the master has declared to the custom house officials the nation to which she belongs, and in default of such declaration the ship may be detained.

69. If any person or ship unlawfully uses the British flag (save to escape capture), the ship is liable to forfeiture.

70. If the master or owner attempts to conceal the British character of his ship, the ship is liable to forfeiture, and the master, if privy to the same, is guilty of a misdemeanour.

71. Any unqualified person acquiring ownership in a British ship, is subject to forfeiture of his interest.

72. A British ship not recognised as such under the Act cannot claim any of the privileges, &c., of a British ship, but remains liable to dues, &c., as if she were a recognised British ship.

73. The Red Ensign and the Union Jack with a white border are the only national colours to be hoisted and worn by British merchant ships, and any improper colours may be forcibly removed by any full pay officer in Her Majesty's service. If this provision be contravened the master, or owner if

on board, is liable to a fine of £500 if prosecuted in one of the High Courts, or of £100 if prosecuted summarily.

74. A British ship must hoist the national colours on a signal being made to her by one of Her Majesty's ships; on entering and leaving any foreign port; and if of 50 tons gross tonnage and upwards on entering and leaving any British port. In default the master incurs a penalty of £100. This section does not apply to registered fishing boats.

75. Admiralty powers are not affected by ss. 73 and 74.

Forfeiture.

76. Where any ship or share has become subject to forfeiture, she may be detained and seized by any full pay officer in Her Majesty's service, who may apply to one of the High Courts for adjudication, and the Court may award him such portion of the proceeds of sale as it may think fit. Officers seizing *bona fide* on reasonable grounds are not liable for any damage arising from their act; but if no such grounds are shown the Court may award damages and costs against them.

Measurement and Tonnage.

77. Certain rules are given for the measurement of ships to be registered, and these rules may be modified or altered by the Board of Trade.

78. Ships propelled by engines are entitled to a deduction from their gross tonnage for the space occupied by the propelling power. If goods or stores are carried in such space the master and owner are each liable to a penalty of £100.

79. Deductions from the gross tonnage must also be made for any space used exclusively for the accommodation of the master and crew; or for the ship's tackle; such places being permanently marked.

80. In the case of a steamship, where any new space on deck has not been included in the gross tonnage, the space shall be measured and added to the register tonnage.

81. In ships with double bottoms for water ballast, the measurements are made from the upper side of the inner plating.

82. When the tonnage is once ascertained, it is thenceforth to be deemed the tonnage of the ship, unless any error be afterwards discovered in the computation.

83. Specifies the fees to be paid for measurement, to go to the Mercantile Marine Fund.

84. Ships of a foreign country adopting the British rules of measurement need not be remeasured in this country. If it appears that the tonnage of a foreign ship differs materially from what it would be if measured under this Act, any of the ships of that country may be remeasured in accordance with it.

85. On any ship, except a home-trade ship, any uncovered space upon deck occupied by any cargo, &c., shall be measured and entered on the ship's official log, and all tonnage dues paid upon the same.

86. The Board of Trade appoints the officers for the survey and measurement of ships.

87. Tonnage rates under local Acts or powers may be levied on the registered tonnage.

Foreign and Colonial Ports of Registry.

88. Her Majesty may, by Order in Council, declare certain foreign ports to be ports of registry, and arrange for their registrars and make the necessary regulations.

89. The governor of a British possession has control of the registry in that possession, and has power to appoint ports of registry therein.

90. The governor, with the approval of a Secretary of State, may grant to any British ship not exceeding 60 tons burden a terminable certificate of registry in lieu of the usual certificate.

91. Application of Part I. (see p. 231).

PART II.—MASTERS AND SEAMEN.

Part II. of the Act, embracing Sections 92 to 266, deals with all matters relating to officers, seamen, and apprentices, with their respective qualifications, rights, and obligations. Its application is given in Sections 260 to 266.

Certificates of Competency of Masters, Mates, and Engineers.

92. Every British foreign-going ship and home-trade passenger ship, when going to sea from any place in the United Kingdom, and every foreign ship carrying passengers between places in the United Kingdom, must be provided with duly certificated officers, as follows:—(a.) A master. (b.) If of 100 tons burden and upwards, an officer not lower in grade than “only mate” or “mate.” (c.) If foreign-going, with more than one mate, a “first mate” and “second mate.” (d.) If a foreign-going steamship of 100 or more nominal horse-power, a “first class” and another “first class” or “second class” engineer. (e.) If of less than 100 nominal horse-power, or a home-trade passenger steamship, a “first class” or “second class” engineer. Persons not duly certificated, and those employing them, are liable to a penalty of £50.

93. The *Grades* of certificates are eight in number:—In foreign-going ships, master, first mate, second mate, and only mate; in home-trade passenger ships, master and mate; and in steamships, first class and second class engineer. Certificates for foreign-going ships are considered of higher grade than, and available as, corresponding certificates for home-trade ships.

94. *Examinations.*—Subject to the Board of Trade, Local Marine Boards may appoint examiners, and institute examinations at their ports for persons needing certificates of competency as *masters* or *mates*. The Board of Trade issues rules for conducting these examinations.

95. The Board of Trade may arrange for examinations at ports where no Marine Board exists.

96. The examinations for *engineers* shall be held as the Board of Trade may direct.

97. Applicants for examination pay certain specified fees, which go to the Mercantile Marine Fund.

98. On candidates passing the examination, and giving satisfactory evidence as to character, &c., the Board of Trade shall, unless dissatisfied with the examiner's decision, grant certificates of competency.

99. Lieutenants or sub-lieutenants in Her Majesty's Navy, or lieutenants in the Indian Marine Service, are entitled without examination to a *certificate of service* from the Board of Trade as master of a foreign-going ship only. Similarly, Naval engineers or assistant engineers are entitled without examination to similar certificates as first class and second class engineer respectively.

100. The Registrar-General of Shipping, or other person directed by the Board of Trade, shall keep a register of all grants, alterations, suspensions, or cancellations of certificates.

101. In case of loss the Board of Trade will supply a copy of his certificate to any certificated officer.

102. *Colonial Certificates of Competency*, where granted by the legislature of any British possession in conformity with the regulations existent in the United Kingdom, by Order in Council may be declared to be equally valid with those granted in the United Kingdom.

103. On signing the agreement with the crew of a foreign-going ship, and before every voyage, the officers' and engineers' certificates must be produced to the superintendent. The master or owner of a home-trade passenger ship above 80 tons burden must produce the same certificates to some superintendent during the first three weeks of July and January. The superintendent will then give a certificate of inspection, without which the chief officer of Customs may detain the ship.

104. Any person who forges or fraudulently alters, or makes a false representation to obtain for himself or another a certificate, or lends any certificate, or uses such, is guilty of a misdemeanour.

Apprenticeships to the Sea Service.

105. Marine superintendents are to facilitate apprenticeships in every way, and may receive certain prescribed fees therein.

106, 107. Apprenticeship indentures of *pauper* boys are to be executed by the boy (who must be over 12 years old) and the master, in the presence, and with the approbation, of two justices.

108. Every indenture of apprenticeship is to be executed in duplicate, and exempt from stamp duty, and must be recorded by some marine superintendent within seven days of execution. The assignment or cancellation of apprenticeship, or the death or desertion of apprentices, must be promptly

notified by the master to the Registrar-General, or some superintendent, and recorded forthwith. In default, there is a penalty of £10.

109. Apprentices and their indentures to be brought by the master before the superintendent before each foreign voyage, under penalty of £5.

Engagement of Seamen.

110. The Board of Trade may grant licenses to suitable persons to act as agents in procuring seamen and apprentices for ships.

111. Any person except the owner, master, mate, person in the service of the owner, or a superintendent, acting as above without a license, or any person so employing unlicensed persons, or receiving seamen or apprentices illegally supplied, is liable to a penalty of £20 for each person illegally engaged, and the license may be forfeited.

112. Any person demanding or receiving other than the prescribed remuneration from seamen for procuring employment incurs a penalty of £5.

113. Masters of ships (except coasting vessels under 80 tons) engaging seamen shall enter into an agreement with them, under a penalty of £5.*

114. The *agreement* must be in the prescribed form signed by the master first, and then the seamen. It must contain particulars of the nature and duration of the voyage, (or the maximum length of the engagement may be given, and the parts of the world not to be visited stated), number and description of crew, date of commencement of employment, capacity in which each seaman is to serve, amount of wages, scale of provisions, and nature of special discipline (if any). When a master of a vessel whose crew was engaged abroad, engages a single seaman in the United Kingdom, the latter may sign the agreement as made with the crew.

115. For all *foreign-going ships*, agreements hiring crews when made in the United Kingdom are to be signed in duplicate before the superintendent, except by substitutes engaged for deserters, &c., who will sign as early as possible after engagement before a witness.

Running Agreements for two or more short voyages may be made, but no such agreement shall extend beyond the next following 30th of June or 31st December, or the first arrival of the ship at her destined port in the United Kingdom after either of those dates. Engagements and discharges of seamen under running agreements are to be endorsed by the master on such agreement on each return to the United Kingdom, stating either that no discharges or engagements of seamen are or have been made, or if any, the particulars thereof, and the agreement shall in due course be delivered to the superintendent, who shall (if in order) also endorse it as regular and redeliver to the master. If the master wilfully makes a false statement in

* Certain fees appointed by the Board of Trade are charged on engagements and discharges of crews, and an approved list of such fees must be hung in every Marine Office. The ship-owner pays these fees, and then deducts a small fixed amount from the wages of each member of the crew.

such endorsement he incurs a penalty of £20. The duplicate agreement shall either be sent to the Registrar-General, or retained by the superintendent till its expiration.

116. In *home-trade ships* the agreement with the crew or single seaman may either be signed before the superintendent, or after full explanation before any witness, before, or as soon after, putting to sea as possible. Owners of several home-trade ships may make agreements which enable them to transfer seamen from one vessel to another, the ships being specified.

In home-trade ships (over 80 tons burden) no agreements are to be made extending beyond the next following 30th June or 31st December, or the first arrival of the ship at her final port in the United Kingdom after such dates. But the owner may enter into *time* agreements in the prescribed form, which need not expire at the above dates, the duplicate being sent to the Registrar-General within 48 hours of its execution.

117. If any changes occur in the crew before leaving the United Kingdom, the master must send a statement to the nearest superintendent, under a penalty of £5.

118. Before each voyage the superintendent must grant the master of a foreign-going ship a certificate of the due execution of the agreement, without which the ship may be detained. Within 48 hours of the arrival of a foreign-going ship at her port of destination in the United Kingdom or on discharge of the crew, the master shall, under a penalty of £5, deliver up the agreement to the superintendent, who will give him a certificate to produce to the customs officials on clearance inwards.

119. In home-trade ships over 80 tons burden the master or owner must deliver to the superintendent all agreements with the crew made within the 6 months preceding June 30th and December 31st, within 21 days after those dates, under a penalty of £5. The superintendent will give a certificate in exchange, without which the ship will be detained.

120. At the commencement of every voyage the master is (under a penalty of £5) to put up a copy of the agreement on board his ship so as to be accessible to the crew.

121. The fraudulent alteration of or any false entry in an agreement is a misdemeanour.

122. All alterations of agreements are void unless made with full consent of all parties and legally attested.

123. Seamen may bring evidence as to the contents of an agreement without producing the original or a copy thereof.

124. Seamen engaged in the Colonies are to be shipped before a superintendent (if any) or customs officer: if shipped beyond British jurisdiction, before the British consular officer (if any) at the port. Failure to comply with this section entails a penalty of £5.

Agreements with Lascars.

125. Contracts may be made with lascars, or any native of India, to ship to the United Kingdom, and there enter into a further agreement to serve as

a seaman in any vessel bound to any port in British India. Or for a voyage to the Australian Colonies, and there enter into a further agreement to serve as a seaman in any vessel bound to any part of Her Majesty's dominions. These contracts must be in the prescribed government form, and contain certain provisions, including the express condition that they be in due course returned to their own country. (*See s. 185*).

The further agreement must be certified and approved by some officer appointed by an Indian Secretary of State or the Colonial governor.

On arrival in the United Kingdom the master must produce a list of lascars shipped, and account for the absence from the ship of anyone on such list, under a penalty of £10 per lascar on the master and owner.

This section does not affect any unrepealed provisions of the Act of the 4th year, George IV., chapter 80, dealing with the shipment of lascars, their discipline, payment, &c. (A digest of these provisions is given hereafter).

Rating of Seamen.

126. To be entitled to the rating of A. B., a seaman must have served at sea for 4 years before the mast; or at least 1 year at sea in addition to at least 3 years service on board a registered decked fishing vessel. Such service being proved by the certificates of discharge, or by certificate of service to be obtained from the Registrar-General at a cost of 6*d.*, or by other satisfactory evidence.

Discharge of Seamen.

127. All seamen discharged in the United Kingdom, from foreign-going ships, must be discharged before a superintendent, (in home-trade ships this is optional), and in default the master or owner incurs a penalty of £10.

128. On discharge, masters must give seamen a formal certificate of discharge, under a penalty of £10, and officers must have their certificates of competency returned to them, under a penalty of £20.

129. On every discharge before a superintendent, the master shall make a report on the seaman's character, &c., in a prescribed form, or state on it that he declines to do so.

130. Any person making a false report, forging, fraudulently altering, or fraudulently using a forged or altered certificate of discharge or report of character, is guilty of a misdemeanour.

Payment of Wages.

131. Where a seaman is discharged he shall receive his wages through or in the presence of the superintendent, unless a competent Court direct otherwise. If the master or owner pays in any other way he is liable to a penalty of £10.

132. Before discharge, the master of every ship must deliver a full and true account (in a prescribed form) of all wages due to the seaman, and all intended deductions therefrom, if not discharged before a superintendent to the seaman himself, or if before a superintendent either to the seaman

before he leaves the ship, or to the superintendent at least 24 hours before discharge. In default, a penalty of £5.

133. No deduction shall be allowed if not included in the above account, unless in respect of a matter happening after the delivery. The master must enter all such deductions in a special book during the voyage.

134. In foreign-going ships (except when the seamen are paid wholly by a share in the profits), the owner or master must pay each seaman on leaving the ship at the end of his engagement two pounds, or one-fourth of the sum due to him, whichever is least; and the remainder within two clear working days. With the seaman's consent, the final settlement may be left to a superintendent. If default is made in payment as above, the wages shall continue to accrue till the final settlement, unless the delay is due to the seaman's act or default, or to reasonable dispute, &c.

135. In home-trade ships, the master or owner must pay the wages within two days after the termination of the agreement, or on discharge. In case of delay, without reasonable cause, the seaman can claim double pay for each day's delay up to ten.

136. When the crew is discharged, mutual releases between the master and crew are given in a prescribed form, signed by the seamen and the master or owner, and attested by the superintendent, who retains the said releases. The master may also require a voucher from the superintendent of the amount paid.

137. Superintendents may decide disputed questions between masters and crews if the parties in writing so desire.

138. In any such matter before a superintendent, he may require the owners, or master, officers, or crew, to produce the ship's books and papers, or other documents in their possession, and require, and take any evidence, under a penalty of £5 for non-compliance.

139. Payment of wages must be made in the currency agreed on; if in other money, at the local current rate of exchange.

Advance and Allotment of Wages.

140. *Advance Notes* may only be stipulated for on the agreement, for a sum not exceeding one month's wages, and the wages may also be allotted.

141. *Allotment Notes.*—All stipulations for the allotment of any part of seamen's wages are to be inserted in the agreement, and the allotment notes are to be in a prescribed form either in favour of a savings bank, or of the seaman's wife, father, mother, grandfather, grandmother, child, grandchild, brother, or sister.

142. Allotments in savings banks are carried out as prescribed by Board of Trade regulations, and the sum so deposited is only paid out on the seaman's application through a superintendent or the Board of Trade. In case of death, application must be made by some person to whom his property, if under £100 in value, may be paid under this Act (*see s. 176*).

143. The allottee may sue and recover the amounts due before a Court of summary jurisdiction, unless the owner can prove that the seaman has

forfeited or ceased to be entitled to such wages. A wife who deserts her children, or grossly misconducts herself, is not entitled to recover. The seaman will be presumed to be duly earning his wages, unless it can be shown that he has left the ship, or ceased to be entitled to his wages.

144. Payments under allotment notes are made monthly from the date of the agreement, but in the case of savings banks at 3 months from such date or later as may be fixed by the agreement.

Seamen's Money Orders, and Savings Banks.

145. The Board of Trade have power to give facilities for remitting the wages and other money of seamen and apprentices, by means of *Orders* issued by superintendents.

146. Should the order be lost, the amount may be paid to the payee or his legal representative.

147. If any superintendent or officer issues such an order fraudulently he is liable to penal servitude for 3 to 5 years.

148. The Board of Trade may establish and conduct *Savings Banks* in the United Kingdom, for the deposits of seamen (including the Royal Navy), or their wives or families.

149. The Board of Trade may hand over such sums deposited to the National Debt Commissioners for investment.

150. Deposits of deceased depositors are dealt with in the same way as their other property. (See page 246).

151. Expenses of the banks are paid out of the interest received from the Commissioners.

152. Annual accounts and regulations to be laid before Parliament.

153. Officials of Seamen's Savings Banks, and also those dealing with Money Orders, are exempt from legal proceedings in connection therewith, except in case of fraud or wilful default.

154. Persons fraudulently attempting or assisting to obtain a deposit or interest are liable to 5 years penal servitude, or 2 years (or on summary conviction 6 months) imprisonment with or without hard labour.

Rights of Seamen in respect to Wages.

155. The right to wages and provisions commences either with actual commencement of work, or date named in agreement for its commencement, whichever first happens.

156. Any agreement by a seaman abandoning any of his rights respecting his wages, &c., is inoperative. This does not, however, apply to seamen engaged in salvage service, where special agreements may be made.

157. The right to wages does not depend on the earning of freight; but the right is lost if the seaman does not exert himself to the utmost during a shipwreck for ship, cargo, or stores.

158. Seamen's wages are paid up to the date of shipwreck or of being left abroad ill.

159. Wages do not accrue during imprisonment, or during the time of unlawful refusal or neglect to work.

160. Wages do not accrue during illness caused by the seaman's own wilful act or default.

161. If a seaman or apprentice has been convicted of an offence, and punished therefor, a sum not exceeding £3 may be deducted from his wages by order of a Court to be applied towards the costs incurred by the master.

162. Seamen improperly discharged before the commencement of the voyage, or before one month's wages are earned, may, in addition to wages actually earned, recover compensation not exceeding one month's wages.

163. Wages of a seaman or apprentice are not subject to attachment or arrestment, a prior assignment or sale thereof is not binding, and a power of attorney or authority for the receipt thereof can be revoked.

Mode of Recovering Wages.

164. Seamen may recover their wages before magistrates summarily if not exceeding £50.

165. If the owner is bankrupt, or the ship under arrest, or sold by order of a Court, or the case is referred by the magistrates, or neither the owner nor master resides within 20 miles of the place of discharge, the claim may be made in the superior Court.

166. No seaman can sue abroad for wages of a voyage to terminate in the United Kingdom, unless in case of discharge, or unless he proves that he has had to leave the ship in danger of his life owing to ill-usage. If on return to the United Kingdom such seaman proves his right to sue for such wages, he shall in addition receive compensation not exceeding £20.

167. *Masters* have the same rights and remedies respecting their wages as seamen have.*

168. In disputes between owner or master and seamen or apprentices, the Court has power to *rescind any contract* between them, if they think it just to do so.

Property of Deceased Seamen.

169. If a seaman or apprentice dies on a voyage the master is to take charge of or sell all his effects, and enter in the official log (attested by the mate and another of the crew) a statement of the money and effects so left;

* The Court of Admiralty has jurisdiction over claims of seamen for wages, and masters for wages and disbursements, but without costs, if less than £50 be claimed; and County Courts, having Admiralty jurisdiction, can adjudicate *inter alia* in wages claims up to £150. If actions are brought without leave in the Court of Admiralty, or other superior Court, which could and might have been brought in the County Court, then the plaintiff shall not have his costs (*Admiralty Courts Act*, 1861, s. 10; *County Courts Admiralty Jurisdiction Act*, 1868, ss. 3, 9).

if sold, a statement of articles sold, and the amount they each fetched; and the amount of wages due to the deceased seaman, with deductions, if any.

170. If the ship subsequently touches at some foreign port and remains for 48 hours, the master must report the case to the British consular officer or officer of customs, and deliver to him, if requested, the deceased seaman's property, receiving a receipt therefor, and the officer must endorse the agreement. Within 48 hours after the ship's arrival at the port of destination in the United Kingdom, the receipt must be produced to a superintendent, or the property must be delivered to him, and he will give the master a formal certificate, which must be produced to the customs officer before clearance inwards.

171. If the master fail to comply with any part of sections 169 and 170, the Board of Trade will hold him accountable for the property, and he is liable to a fine of £50, or treble the value if known. The owner is also subject to the same liability.

172. British customs or consular officers are to take charge of the money and effects of any British seaman or apprentice dying abroad, but not on board ship.

173. Such officers must sell such property at discretion, remitting and rendering account thereof to the Board of Trade.

174. *In case of loss with the ship*, the Board of Trade may recover the wages due from the owner. A ship is deemed to be lost if not heard of within 12 months after departure from a port, and the duplicate agreements with the crew shall be proof of the persons then on board.

175. Wages and effects of seamen or apprentices *dying in the United Kingdom* are to be delivered by the master or owner to the superintendent at the port of discharge, or to the Board of Trade.

176. The Board of Trade may deduct their expenses from such property, and if the residue exceeds £100 deliver it to the legal personal representative of the deceased. If under £100, the property of a deceased seaman may be paid over to the persons entitled without any probate or administration.

177. A seaman or apprentice *making a will on board ship*, must have it attested by the master or first or only mate, or the Board of Trade may refuse to deliver the property to the persons claiming under such will. If the will be executed *ashore*, it must be attested by two witnesses, one a superintendent, or minister of religion, or justice, or British customs or consular officer; otherwise any person claiming, not being a relative by blood or marriage, may also be refused. On such refusal the property shall be dealt with as though no will had been made.

178. *Creditors* can only claim such property from the Board of Trade, if the debt were incurred not more than 8 years previous to the decease, and the demand must be made within 2 years of the decease. The creditor will be required to produce ample proof of his claim, and the Board may delay investigation for 1 year from the date of such production. The

creditor can also claim from any person to whom the property may have been handed over.

179. The unclaimed property of deceased seamen and apprentices is, after 6 years, paid into the Mercantile Marine Fund.

180. Forgery or false representations in order to obtain wages or effects of deceased seamen entail the same penalties as in s. 154.

181. The property of a seaman of the Royal Navy, sent home and dying on board a merchant ship, must be delivered to the Accountant-General of Her Majesty's Navy.

Reimbursement of Relief to Seamen's Families.

182. Parish relief supplied to a seaman's family is chargeable upon his wages up to a proportion not exceeding one-half for one person, or two-thirds for 2 or more.

183. Notice of such claim must be served on the owner, requiring him to retain such proportion for a period not exceeding 21 days from the seaman's return, and the owner must give immediate notice of such return, that payment may be enforced. The balance, or if no claim is made within the 21 days, the amount, must be handed over to the seaman.

Destitute Seamen.

184. Masters, owners, or consignees of any ship in which a native seaman of any country in Asia, Africa, or of any island in the Pacific Ocean, or of any other country not represented by a consular officer, brought to the United Kingdom, and being improperly left there, becomes a pauper, or is convicted of any offence, are liable to a penalty of £30.

185. The Indian Government must relieve and take home any lascars left destitute in the United Kingdom, and is also liable to repay any expenses incurred by the poor law authorities in maintaining them. The Indian Government can recover such expenditure from the master and owner of the ship bringing them to the United Kingdom. (See s. 125).

Leaving Seamen Abroad.

186. On a British ship being transferred or sold abroad, the written consent of a seaman or apprentice to continue the voyage must be signified before the British consular officer (if any), or before one or more respectable British merchants. If, however, a seaman or apprentice be discharged abroad, the master must give him a formal certificate of discharge, pay all wages due, and in addition either provide him with adequate employment in a British ship bound to the United Kingdom, or provide for sending him home, particulars being endorsed on the agreement by the consular officer or merchants. If no such agreement be made, persons defraying such expenses can recover from the owner.

187. Any master who wrongfully leaves any seaman on shore or at sea before the completion of the voyage, or return to the United Kingdom, is guilty of a misdemeanour.

188. If any master discharges a seaman or apprentice abroad, otherwise than in the British possession where he was shipped, he must obtain the sanction, endorsed on the agreement, and if he leaves him, behind a written certificate of the cause, granted by a superintendent, British consular officer, or merchants, if considered just to do so. In default, he is guilty of a misdemeanour. The proof of having obtained such sanction or certificate lies on the master, or he must show that he was unable to obtain it.

189. If the master of a British ship leaves a seaman or apprentice behind abroad upon the ground of his unfitness or inability to proceed on the voyage, he must deliver to the person signing the above certificate a full account of the wages due, under a penalty of £10; if the account is false the penalty is £20. If in a British possession, the amount due shall be paid to the man himself; elsewhere to the British consular officer.

Payment must be made in money, if practicable, or by a bill on the owner; if by bill the person signing the certificate endorses on the bill that the same is drawn for seamen's wages, and also endorses particulars on the agreement with the crew. In default of such payment the master is liable to a penalty of £10. It is not necessary to show in an action on such bill upon owners, that the captain had authority to draw.

If payment be made to a consular officer, he endorses a receipt on a duplicate account, which the master must deliver to the superintendent within 48 hours of his arrival at his port in the United Kingdom. The officer retains the account for the payment of the seaman, and after deducting all subsistence moneys and other expenses, except such as the owner or master is liable to pay, hands him the balance. Should such seaman die, the officer deals with the sum as being property of a deceased seaman. If he be sent home at the public expense, the officer accounts for the sum to the Board of Trade, who will hand the man the balance (if any) after payment of expenses duly incurred.

Distressed Seamen.

190. The Board of Trade are empowered to make regulations as to the relief, maintenance, and sending home of seamen and apprentices when in distress abroad.

191. Governors of British possessions, and British consular or other officers abroad, or, where there are no British officers, one or two resident British merchants, are to carry these regulations into effect. If sent home by a British ship, particulars must be endorsed on the agreement with the crew. On an account being rendered to the Board of Trade, expenses hereby incurred will be refunded.

192. Masters of British ships are, under a penalty of £100, required to bring distressed seamen home when required so to do, in proportion of one to every 50 tons burden. On arriving in port, the master is to produce the certificate of shipment of such persons, with a declaration made by the master before a justice, verified by the Registrar-General, stating the number

of days they have been maintained, with full particulars of the crew on board during such time, and the Board of Trade will allow a certain sum per diem.

193. When any seaman or apprentice is improperly discharged or left abroad by a British master, or, if in a foreign ship, becomes distressed, and is relieved, as above provided, or dies and is buried, the expenses are a charge on the ship; and the Board of Trade may sue either master or owners thereof, and if a foreign ship the person who engaged the seaman for the ship, for those expenses and any wages, &c., due to such seaman.

194. Expenses paid by the Crown come out of the Mercantile Marine Fund, to which sums received are carried.

Volunteering into the Navy.

195. A seaman may leave his ship in order to *forthwith* enter the Navy, and cannot abandon this right by agreement. Contravention of this section renders the master or owner liable to a penalty of £20.

196. When a seaman legally leaves his ship for this purpose, and is received, the master, under a penalty of £20, is to deliver up his effects, and pay to the enlisting officer the amount of his wages earned, either in money, or bill on the owner, payable at sight to the order of the Accountant-General of the Navy.

197. The above sum is not paid to the seaman till expiration of the period for which he originally agreed. In case such seaman has not earned the whole amount advanced to him by his owners, such amount unearned is to be repaid the owner out of the seaman's naval wages when earned; but if in engaging a substitute for such seaman the master is put to extra expense, he or the owner may, on application to the High Court, obtain repayment from the Accountant-General on that account. Any person fraudulently making such application is guilty of a misdemeanour.

Provisions, Health, and Accommodation.

198. Any three or more of the crew of a British ship may complain to any British naval officer, consular officer, superintendent, or chief officer of customs, that the *provisions* or *water* supplied are bad or insufficient. Such officer is to examine the provisions, &c., and if found bad or insufficient, he shall give the master notice thereof in writing, and require him, under penalty of £20, to remedy the matter, and shall enter a report of the inspection in the official log, and give notice thereof to the Board of Trade. But if the officer reports that there is no ground for complaint, then each complainant is liable to forfeit one week's wages to the owner.

199. If the allowance of provisions be contrary to agreement, reduced in quantity, or be of bad quality and unfit for use, the seaman is to receive compensation for the time of the breach of agreement, as follows:—If reduced not more than one-third, not more than 4d. a day; if more than one-third,

8d.; and if of bad quality, 1s. a day. But if the breach be unavoidable, and equivalent substitutes are provided, then no compensation is given, or the amount thereof is modified.

200. The Board of Trade shall issue scales of *medicines, &c.*, suitable for different ships and voyages, and books of instruction for dispensing them. Owners of ships trading away from the United Kingdom must have the prescribed medicines, &c., and books of instruction.

Anti-Scorbutics.—Except in ships bound to European or Mediterranean ports, and such ships bound to an American Atlantic port North of lat. 35° N. and to any places North of the same limit as the Board of Trade may exempt, the master or owner are to have a sufficient and prescribed quantity of lime or lemon juice, or other approved anti-scorbutics, on board, which is to be served out to the crew after they have been at sea ten days (except while in a harbour and there supplied with fresh provisions), one ounce per day mixed with water to each man. If any seaman neglects or refuses to take it, formal entry is to be made thereof in the official log. The lime or lemon juice must be approved by the Board of Trade, be supplied from a bonded warehouse, and bear the customs label.

Wilful default as to provision of medicines and anti-scorbutics entails a penalty of £20 on the owner or master, and the master is liable to a fine of £5 for not carrying out the provisions as to serving out the latter. If either is due to the default of some other person, that person incurs a penalty of £20. Persons selling medicines of bad quality incur a penalty of £20.

201. Proper *Weights and Measures* are to be kept on board, or the master incurs a penalty of £10.

202. The Board of Trade and Local Marine Boards may appoint inspectors of medicines, &c., to see that ships are properly provided. The inspection must be made at least 8 clear days before the ship sails. If a deficiency is found it must be remedied, and a certificate obtained from a medical inspector, without which the ship may be detained, under a penalty of £20 for proceeding to sea without it.

203. The owner or master may, on payment of fees prescribed, have any seaman applying for employment examined by a medical inspector, who will report on his condition to the superintendent, and a copy of such report shall be given to the owner or master.

204. *Medical Inspectors* are appointed by Local Marine Boards, or by the Board of Trade, their remuneration coming from the Mercantile Marine Fund.

205. The governor of a British possession may appoint medical inspectors therein, and make regulations for the supply of anti-scorbutics.

206. *Inspection of Provisions and Water.*—The Board of Trade are empowered to appoint inspectors of provisions and water intended for the crew, preferably before shipment, but only in the case of ships proceeding through the Suez Canal, or round the Cape of Good Hope or Cape Horn. The ship is to be detained till deficiencies are remedied. The "provisions"

are stated to be barrels of beef and pork, preserved meat and vegetables in tins, and casks of flour or biscuit.

207. If a master, seaman, or apprentice receives any injury in the service of the ship, or is removed to prevent infection, or otherwise, for the convenience of the ship, and subsequently returns to duty, or if he is ill on board ship, the owner is to pay for his surgical and medical attendance and subsistence until he is cured, or returned to his country of shipment; and in case of death, for his burial.

Whenever a seaman who is ill has not been provided with proper food, water, medicines, and anti-scorbutics, the master or owner is liable to pay all the necessary expenses of such illness (not exceeding the amount of three months wages), unless he can show that the illness arose from other causes than such neglect.

In all other cases of illness or death, reasonable proved expenses may be deducted from the wages due.

208. Any expenses in respect of the illness, injury, or hurt of seamen or apprentices, payable by the master or owner, which are paid by any British consular or other officer authorised so to do, shall be recovered from the master, and failing that, are a charge on the ship, and recoverable either by ordinary process of law, or summarily, like wages.

209. Every foreign-going ship having 100 persons or upwards on board, shall, under penalty of £100 per voyage, carry a qualified medical practitioner (*See s. 808*).

210. Accommodation.—Every place in a British ship occupied by seamen or apprentices shall have at least 72 cubic feet and 12 superficial feet of floor for each man, and must be properly constructed, lighted, ventilated, and protected from weather and sea, and be shut off from effluvia caused by cargo and bilge water as far as practicable. Such space is not to be deducted from the registered tonnage, unless there are proper privies for the crew, and the number of men the place is intended to accommodate is cut in a beam, and cut or painted over the door or hatchway. This space is to be kept free from all stores and goods not being the personal property of the crew in use during the voyage, and in default the master shall during continuance of the breach, pay to each seaman or apprentice lodged in such space 1s. a day after complaint has been made by two or more seamen.

On any complaint the Board of Trade will cause survey of such space, and if found insufficient the inspecting officer shall so report, and thereupon the registered tonnage shall be altered.

Facilities for Making Complaint.

211. If any seaman or apprentice wishes to make a complaint before a magistrate or consular or other officer against the master or any of the crew, the master shall, under penalty of £10, permit such seaman on arrival at some port, or so soon thereafter as the service of the ship will permit, to go and make his complaint.

Protection of Seamen from Imposition.

212. An assignment or sale of salvage made prior to the accruing thereof is not binding, and authority given for the receipt of such salvage is not irrevocable.

213. No debt of more than 5s. incurred by a seaman after agreeing to serve shall be recoverable until the service is concluded.

214. *Seamen's Lodging-houses* are regulated by local sanitary authorities, but their byelaws must be approved by the Board of Trade; breach of such byelaws entails a penalty of £50. Any person contravening an Order in Council requiring lodging-house keepers to be duly licensed is liable to a penalty of £100.

215. Lodging-house keepers charging seamen for a longer period than is just, are liable to a penalty of £10.

216. Any person detaining a seaman's effects, except for a debt justly due, is liable to a penalty of £10.

217. Any person being on board a ship within 24 hours after her arrival in any port in the United Kingdom who solicits any seaman to become a lodger at any lodging-house, or takes out of such ship any seaman's effects without his direction and the permission of the master, incurs a penalty of £5.

218. No persons but those duly authorised are allowed on board a ship on arrival, without the master's permission, before the seamen leave or are discharged, under penalty of seizure and liability to a fine of £20 or 6 months imprisonment.

219. Foreign vessels can be made amenable to s. 218 by an Order in Council, if the government of the foreign country apply it in their own dominions, and so desire it in British dominions.

Provisions as to Discipline, Desertion, &c.

220. Misconduct on the part of a master or seaman endangering ship, or life, or limb, is made a misdemeanour.

221. *Desertion, &c.*—A seaman or apprentice deserting his ship is summarily punished by forfeiture of his wages earned and effects. If it take place abroad, he also forfeits any wages he may earn in any other ship until his next return to the United Kingdom, and must pay any excess of wages paid by the master or owner in finding a substitute, and is also liable to 12 weeks imprisonment with or without hard labour.

For not joining his ship, or being *absent without leave* within twenty-four hours of sailing, or at any time during the voyage, he is liable to forfeit 2 days pay, and in addition for every 24 hours of absence a sum not more than 6 days pay, or any expenses properly incurred in hiring a substitute; if abroad he is liable to 10 weeks imprisonment with or without hard labour.

222. Masters, owners, mates, ship's husbands, or consignees, may *arrest* deserters or absentees without a warrant, and convey them on board, unless

the man require to be first taken before some Court of law. Any person improperly arresting a seaman is liable to a penalty of £20, or an action for false imprisonment.

223. If abroad, deserters or absentees may also be arrested and taken on board without a warrant, or conveyed before some competent Court of law (if any) within 24 hours. There is a penalty of £20 for an improper arrest. If abroad, a seaman or apprentice is imprisoned for any breach of discipline, and the master or owner so wish, magistrates may send him back on board instead of keeping him in prison.

224. In case of desertion or illegal absence, the Court, if the master or owner so require, may send such person back on board, and order payment of costs and expenses out of their wages. If in the United Kingdom, he cannot be conveyed back to his ship if he gave not less than 48 hours notice to the master or owner of his intention to be absent.

225. The following are *summary* punishments:—For quitting the ship at port of delivery before she is secured, a fine not exceeding one month's pay. For wilful disobedience to a lawful command, four weeks imprisonment, and also forfeiture of two days pay. For continued wilful disobedience and neglect of duty, twelve weeks imprisonment, and forfeiture of six days pay (at most) for every twenty-four hours of continued disobedience or neglect, or the expenses of hiring a substitute. For assaulting any master or officer, or for combining to disobey or neglect duty, or hinder the voyage, twelve weeks imprisonment. For wilfully damaging the ship, or wilfully damaging or embezzling any of her stores or cargo, twelve weeks imprisonment, and forfeiture out of his wages of a sum equal to the loss sustained. For conviction of any act of smuggling, whereby the master or owner suffers loss, forfeiture of a sum equal to such loss, and his wages may be taken in satisfaction or on account of such amount. The imprisonment may be with or without hard labour.

226. The summary remedies in sections 221 to 225 do not limit the right of the owner or master to any legal remedy in addition for breach of contract.

227. If any seaman, on or before being engaged, wilfully makes a false statement as to the name of his last ship, or of his own name, he incurs a penalty of £5.

228. Whenever any seaman commits an offence for which it is intended under his agreement to inflict a fine, an entry thereof shall be made in the official log, signed by the master and by the mate or one of the crew, and such entry must be read over to the offender, or a copy thereof furnished to him, and a similarly signed note of having done so must be entered in the official log, and also of any reply he makes.

229. In case of desertion abroad, the master produces the entry in the official log for certification to the person authorised to grant certificates for leaving seamen behind, who will send a copy thereof to the Registrar-General.

230. Superintendents are to keep a list of deserting or absentee seamen, for the inspection of masters.

231. Any question of forfeiture of wages for desertion is proved by the entry in the official log book.

232. *Application of Forfeitures.*—Property forfeited for desertion may be sold, and the proceeds and wages due applied towards reimbursing the expenses of the master or owner, and the residue carried to the Consolidated Fund. Wages forfeited for other offences, are forfeited to the master or owner, unless specifically provided otherwise.

233. Questions of forfeiture and deductions may be decided in suits for wages, though there may have been no criminal proceedings taken thereupon.

234. When the wages forfeited are not by the month or by time, but by the voyage, run, or share, the amount forfeited shall be in the same proportion to the amount earned, as the period mentioned in the amount of forfeiture bears to the whole time spent in the voyage, &c.

235. On the master proving the commission of the offence before a superintendent in the United Kingdom, the amount of such fine shall be deducted from the wages and paid over to such superintendent. Or if the seaman enters the Navy, or be discharged abroad, such offence shall be proved before the enlisting officer, consul, chief officer of customs, or other person before whom such seaman is discharged, and then the amount of such fine shall be deducted from the seaman's wages, and a signed entry thereof made in the official log, and the fine shall, on arrival of the ship in the United Kingdom, be handed over to the superintendent. The penalty for not handing over every such fine as aforesaid is six times its amount.

236. The penalty for *enticing* any seaman or apprentice to desert or neglect to join his ship, or be absent from duty, is £10; and the penalty for wilfully harbouring a deserter, having reason to believe him to be such, is £20.

237. *Stowaways, &c.*—Every person who secretes himself, and goes to sea in any ship without leave, incurs a penalty of £20, or imprisonment for four weeks, with or without hard labour. Stowaways and distressed seamen are subject to the same discipline as though they were members of the crew.

238. Where the government of any foreign country gives facilities for recovering deserters, an Order in Council may declare that facilities will be given for recovering deserters from the ships of that country when within Her Majesty's dominions. Any person harbouring such a deserter is liable to a penalty of £10.

Official Logs.

239. An official log, in a form sanctioned by the Board of Trade, is to be kept by all ships (except Scotch coasting vessels), and such official log may be kept either in conjunction with, or separate from, the ordinary log. Entries in the official log shall be promptly made, and if not entered on the day of the occurrence, then the date of the occurrence and entry shall both be

inserted; and no entry shall be made of matters occurring before arrival at port of discharge more than twenty-four hours after such arrival (*See s. 241*).

Every entry is to be signed by the master, and the mate or some other of the crew, and entries of illness, injury, or death, shall be signed by the doctor (if any). An entry of wages due to a deceased seaman, or respecting the sale of his effects, shall be signed by the master and mate and another of the crew. An entry of wages due to a seaman entering the Navy shall be signed by the master, and by such seaman, or the naval officer receiving such seaman. All entries in official logs are to be received in evidence.

240. The following matters have to be entered in the official log:—

1. Every legal conviction of a member of the crew, and the punishment inflicted.
2. Every offence for which it is intended to prosecute, or fine the offender, with a statement that the entries made have been read over to the offender, with the reply (if any).
3. Every offence punished on board and the punishment.
4. Statement of conduct, character, and qualifications of each of the crew, or that the master declines to give an opinion on those particulars.
5. Every case of illness, or injury, to any of the crew, and the medical treatment adopted.
6. Every marriage taking place on board, with the names and ages of the parties.
7. Name of every seaman, or apprentice, quitting the ship, with place, time, manner, and cause thereof.
8. Amount of wages due to any seaman who enters the Navy during the voyage.
9. Amount of wages due to any seaman or apprentice, dying during the voyage, and the gross amount of all deductions to be made therefrom.
10. Particulars of effects of any deceased seaman which are sold.
11. Every collision with another ship, and the circumstances under which the same occurred.
12. Any other matter directed by this Act to be entered.

241. There is a penalty of £5 for not keeping the official log in the manner required. Any entry made more than 24 hours after arrival at port of discharge of an event occurring before such arrival entails a penalty of £30. Wilful destruction or mutilation of, or fraudulent entries or omissions in, the official log, are accounted as misdemeanours.

242. Masters of foreign-going ships shall, within forty-eight hours of arrival at the final port of destination in the United Kingdom, or discharge of crew, whichever first happens, deliver to the superintendent before whom the crew is discharged, the official log of the voyage. Masters or owners of home-trade ships are to deliver their official logs half-yearly, within twenty-one days after 30th June and 31st December in each year.

243. Where in case of transfer or change of trade of the ship the official log ceases to be obligatory such log, if the ship is in the United Kingdom, must within one month, or if abroad within 6 months, be sent by the master or owner to the superintendent at the port of registry. If the ship be lost or abandoned, such log if practicable must be so forwarded as soon as possible. In default the penalty is £10.

Local Marine Boards.

244. Local Marine Boards for carrying out the provisions of Merchant Shipping Acts, under the superintendence of the Board of Trade, shall be elected at certain ports in the manner specified in Schedule VII.

Acts or proceedings of a Local Marine Board are not vitiated by any error or irregularity in the election proceedings, nor by any unqualified person acting on the Board, nor by any vacancy therein.

They may regulate their mode of business and meetings, and fix a quorum of not less than three. Minutes of their proceedings must be kept.

245. They must make and send such reports as the Board of Trade may require, and all their books and documents are to be open to its inspection.

If any Local Marine Board fails to discharge its duties, the Board of Trade may assume its duties or direct a new election. The Board of Trade on complaint made to it may alter unsatisfactory or improper arrangements made by any Local Marine Board.

Mercantile Marine Offices.

246. Local Marine Boards shall establish in their ports Mercantile Marine Offices, and appoint superintendents, deputies, clerks, and servants, and control their business; but the Board of Trade shall exercise control over such officers.

Where there is no Local Marine Board, the Board of Trade may establish a Mercantile Marine Office.

247. Superintendents are to keep registers of seamen, superintend and facilitate the engagement and discharge of crews, secure the presence on board of crews at the proper time, facilitate apprenticeships, and generally assist in such shipping matters as are committed to them by this Act.

A deputy duly appointed has the same legal status as a superintendent.

248. Provides for the punishment of embezzlement by officers or servants of Local Marine Boards.

249. The Board of Trade has power to dispense with the transaction of any matters required to be so transacted at Mercantile Marine Offices.

250. Any superintendent, deputy, clerk, or servant, who receives any remuneration, save as authorised, incurs a penalty of £20, and is liable to dismissal.

Registration of and Returns respecting Seamen.

251. There is an office in London called the "General Register and Record Office of Seamen," under the control of the Board of Trade. There is a

Registrar-General at the head of this office, with a staff of assistants, clerks, and servants.

252. A register is to be kept, so far as possible, of all persons serving in British ships.

253. Masters of foreign-going and home-trade ships shall, under penalty, on discharging their crews in the United Kingdom, make out and sign a list in an authorised form containing particulars of the ship, voyage, crew, wages, and other matters, and deliver same—in the case of foreign-going ships to the superintendent before whom the crew is discharged, either within 48 hours after arrival in port of discharge or upon discharging crew, whichever first happens; and in the case of home-trade ships, the master shall make out such list half-yearly within 21 days after the 30th June and 31st December, and deliver and transmit the same to some superintendent. The latter gives a certificate of its receipt, which must be produced before any clearance or transire of the ship can be obtained.

Failure to supply the above list entails a penalty of £5 on the master of a foreign-going ship, and on the master or owner of a home-trade ship.

254. *Registration of Births and Deaths.*—The master of every British ship must enter in his log book particulars (*see* Schedule VIII.) of Births and Deaths on his ship at sea. He must transmit these particulars, on a specified form, to the Registrar-General of Seamen, or to a superintendent or chief officer of customs, or consular officer. Failure to comply entails a penalty of £5. (*See, also, s. 690.*)

255. In case of transfer or loss of a ship, the master shall, under penalty of £10, forward such list of the crew to the superintendent of the port of registry within one month, if in the United Kingdom, and within 6 months if abroad.

256. Superintendents and officers of customs, shall, after the use of documents is at an end, transmit same to the Registrar-General for record and preservation, who shall permit inspection of, and produce originals in Court, and furnish attested copies.

257. The masters of all British ships, except passenger ships, arriving at foreign ports where there is a British consular officer, or at any port in British possessions abroad, and remaining 48 hours, must, within that time, deliver to the consul or customs official the agreement with the crew and the apprenticeship indentures and assignments, who shall keep same during the ship's stay at the port, and before leaving shall return same to the master, with a certificate of delivery and return endorsed. In case there appears to be any irregularity in such documents, the official shall endorse a memorandum thereof on the agreement and forward a report thereof to the Registrar-General. Masters failing to comply with these provisions are subject to a penalty of £20, and the onus of proof shall be on the master.

258. If during any voyage the master is superseded, or quits the ship, and is succeeded in command by another person, he must, under a penalty of £100, hand over to his successor all documents relating to the navigation

of the ship or to the crew. The latter, on taking command, must enter a list of such documents in the official log.

Sites for Sailors' Homes.

259. Municipal corporations, or associations, or trustees constituted for any public purpose connected with shipping in any seaport may, with the consent of the Local Government Board, grant any land vested in them for the site of a sailors' home.

Application of Part II. of the Act.

260. This Part of the Act applies to all sea-going ships registered in the United Kingdom, and their owners, masters, and crews.

261. British ships registered out of the United Kingdom, and their owners, masters, and crews, are also subject to nearly all its provisions.

262. *Lighthouse Authorities* and *Pleasure Yachts* are exempt from the provisions relating to:—certificates of competency of officers; indentures of apprenticeship; engagement of crew through unlicensed persons; agreements with the crew (except in engaging a seaman abroad); payment of wages before a superintendent; accommodation for seamen; fines; delivery of documents at ports abroad to consular or customs officers; and official log books.

263. *Fishing Boats* and their crews are only subject to certain provisions.

264. If any *Colonial* legislature apply to any British ship or the owners, masters, and crew, any provisions of this Part which do not otherwise so apply, such law shall have effect throughout Her Majesty's dominions and jurisdiction.

265. Should there appear to be a conflict of laws, the case is to be governed by the provisions in this Act; but if there are no provisions, by the law of the port of registry.

266. This Part applies to unregistered British ships which ought to have been registered.

PART III.—PASSENGER AND EMIGRANT SHIPS.

Part III. of the Act, embracing Sections 267 to 368, deals with the Survey and Equipment of British Passenger and Emigrant Ships, with Regulations affecting the rights and obligations of Passengers, Emigrants, and Owners.

1. DEFINITIONS.

267. A "*Passenger*" is any person other than the master and crew, and the owner, his family, and servants. A "*Passenger Steamer*" is any steamer, British or foreign, carrying passengers between places in the United Kingdom.

268. An "*Emigrant Ship*" is any ship, British or foreign, carrying more than 50 steerage passengers, or, if a sailing ship, more than one statute adult steerage passenger to every 33 tons of the ship's registered tonnage, or to every 20 tons if a steamer. A "*Statute Adult*" is a person aged 12 years and upwards; two children between 1 and 12 are considered as one statute adult. A "*Steerage Passenger*" is any other than a cabin passenger.

269. The Board of Trade fix a scale for determining the *length of voyages* of emigrant ships, for the purposes of the Act.

270. A "*Colonial Voyage*" is from any British possession, other than India and Hong Kong, to any port over 400 miles distant, or more than 8 days voyage.

2. PASSENGER STEAMERS.

Survey of Passenger Steamers.

271. Every passenger steamer carrying more than 12 passengers must be surveyed at least once a year, or she may be detained.

272. The owner must employ a shipwright surveyor and an engineer surveyor for the purpose of examining the ship's hull, machinery, equipments, and the officers' certificates, and if satisfied they will hand him declarations of survey in a form approved by the Board of Trade.

273. Such declarations of surveyors are to be forwarded to the Board of Trade within fourteen days of receipt, under a penalty of 10s. a day for delay.

274. The Board of Trade, if satisfied, shall then issue a certificate in duplicate of the ship's fitness, on payment of a fee, and the penalties for delay, if any.

275. If the owner feels aggrieved with the surveyors' decision, he may appeal to the before-mentioned Court of Survey. The owner may appoint some person to accompany the surveyors, and if they all agree there shall be no appeal from their decision.

276. The Board of Trade transmit the duplicate certificates to a superintendent or other public officer at the port mentioned by the owner, to whom they will be delivered on payment of the fees, &c.

277. The fees are fixed by the Board of Trade, but must not exceed amounts specified in Schedule IX.

278. Such certificate remains in force until it expires by effluxion of time, or is cancelled by the Board of Trade.

279. The certificate may be *cancelled* if obtained by fraud or error in the surveys, &c., and if there is any deterioration in the ship, &c. In such case, new declarations of survey may be required.

280. An expired or cancelled certificate must be given up as the Board direct, under a penalty of £10 on the master or owner.

281. The owner or master must see that a certificate is displayed in some conspicuous part of the ship during the voyage, or the owner is liable to a penalty of £100, and the master £20.

282. Any person fraudulently making, forging, or altering such declarations and certificates is guilty of a misdemeanour.

283. If a greater number of passengers be carried than the number given on the certificate, the owner or master is liable to a fine of £20, besides a penalty of so much a head for every passenger in excess of such number.

284. *Colonial Certificates.*—Where the legislature of any British possession adopts provisions similar to the above, Her Majesty may by Order in Council approve and enforce such provisions.

General Equipment of Passenger Steamers.

285. A sea-going passenger steamer shall have her compasses properly adjusted from time to time, to the satisfaction and according to the regulations of the Board of Trade. There must also be an efficient hose to extinguish fire, capable of being connected with the ship's engines. Every home-trade passenger steamer shall have sufficient and proper shelter for deck passengers. Steamers are also to have a safety-valve on each boiler, out of the control of the engineer when steam is up. For any breach of these provisions the owner, if in default, is liable to £100 penalty, and the master to £50.

286. Any person placing undue weights on any safety-valve shall, in addition to any other liability, incur a penalty of £100.

Keeping Order in Passenger Steamers.

287. The following offences are punishable with a penalty of forty shillings:—Any drunk or disorderly person who, after having any fare paid by him returned or tendered, persists in attempting to enter a steamer, or refuses to leave at any convenient place in the United Kingdom. Any person who, after warning, molests any passenger. Any person who, after warning and the return or tender of any fare paid, persists in entering a full steamer, or declines to leave such steamer when once on board before she commences her voyage. Any person who wrongfully travels, or attempts so to do, without previous payment of fare, or tries to travel further than entitled for the fare paid, or who knowingly refuses or neglects to leave the steamer at

his destination, or who, on demand, either refuses to pay his fare or produce his ticket or receipt.

Any person who wilfully injures or obstructs the machinery or tackle of such steamer, or obstructs or molests any of the crew in the navigation or management of the steamer, shall be liable to a penalty of £20. And the master or other officer of the steamer may, with the assistance of any other persons, detain any person so offending against the above provisions whose name and address is unknown, and without any warrant convey such person before a justice of the peace to try the case summarily.

Any person who, having committed any offence as above, refuses on demand to give his name and address to the master or other person in the owner's employ, or gives a false name or address, is liable to a penalty of £20 to the owner.

288. The master of a home-trade passenger steamer has power to exclude or expel any drunken or otherwise objectionable person, without returning him his fare.

8. EMIGRANT SHIPS.

Survey of Emigrant Ships.

289. Before proceeding to sea every emigrant ship must be surveyed, at the expense of the owner or charterer, by two or more surveyors under the direction of the emigration officer at the port of clearance, such surveyors being appointed by the Board of Trade or the Customs. If reported by them to be not seaworthy or not fit for her intended voyage, the owner or charterer may require the officer to appoint three other surveyors, and if they unanimously agree in their report it shall be final. Failure of compliance with this section entails a penalty of £100 on the owner, charterer, or master.

Equipments.

290. Every emigrant ship must carry three steering compasses, and one azimuth compass; one chronometer (two if proceeding to any place South of the Equator); fire engine, &c.; three approved bower anchors, with cables; lifebuoys; and means of signalling at night. The master is liable to a penalty of £50 for non-compliance.

Number of, and Accommodation for, Passengers.

291. Passengers, cabin or steerage, must not be carried on more than two decks, with limited exception of a poop or deck house, under a penalty of £500 on the master.

292. Steerage passengers must not exceed the number specified in Schedule X. For each passenger in excess the master is liable to a fine of £20.

293. Ordains certain specified regulations (Schedule XI.) as to accommodation, berths, hospitals, privies, light, and ventilation. Breaches of these entail a penalty of £50 on the owner, charterer, or master.

294. No cargo, luggage, provisions, water, or stores are to be carried on the decks, so as to impede light or ventilation, or to interfere with the passengers' comfort, under a penalty of £300 on the owner, charterer, or master.

Provisions, Water, and Stores.

295. Ample supplies of good sound provisions and water must be carried, according to the voyage, under a penalty of £300 on the owner, charterer, or master. The emigration officer can direct an inspection, and if any such water and provisions are not considered good and wholesome they must be landed, under a penalty of £100. If the same are afterwards re-shipped, the person doing so is liable to a penalty of £100.

296. Water to be carried in approved tanks or casks. The penalty for infringement is £50.

297. If the ship is to call for water at any intermediate port, enough must be carried to last from the port of clearance to such port, the emigration officer approving the arrangement in writing. This document is to appear among the ship's papers.

298. The master must issue daily the provisions and water, according to specified dietary scales (Schedule XII.), or those substituted by the Board of Trade, under a penalty of £50.

299. The Board of Trade has power to exempt any emigrant ship from the provisions as to food, space, and accommodation where they are provided in a different but superior manner in the ship.

300. Medicines, medical stores, surgical appliances, &c., must all be provided by the owner or charterer, to the satisfaction of the emigration officer, or of a medical practitioner appointed by him, or the master is liable to a penalty of £50. The master is also liable to a penalty of £100, should the ship proceed to sea without a certificate or permission from such officer, stating that compliance has been made with this section.

Dangerous Goods, and Carriage of Cattle.

301. An emigrant ship shall not be allowed to put to sea, under a penalty of £300 on the owner, charterer, or master, carrying as cargo any explosive article, or any vitriol, lucifer matches, guano, or green hides, or any cargo or ballast likely to endanger life or health, or the ship's safety; no animals may be carried except as provided in Schedule XIII.

302. A Secretary of State may, however, authorise the carriage as cargo of naval and military stores for the public service. The order is countersigned by the emigration officer, and delivered to the master. The master is liable to a penalty of £300 for non-compliance with the terms of the order.

Medical Officer, Staff, and Crew.

303. A duly authorised medical practitioner must be carried, under a penalty of £100 on the master, when the number of steerage passengers

exceeds 50; also when the total number of persons on board exceeds 800. A *medical practitioner* must be legally qualified, either at home or abroad; must be approved by the emigration officer; and be provided with proper surgical instruments. He is rated on the ship's articles.

If the majority, or as many as 800, of the steerage passengers are foreigners, any medical practitioner approved by the said officer may be carried whether authorised or not.

Any person not duly authorised as aforesaid, and undertaking to act the part of medical practitioner, is liable to a penalty of £100.

304. *Stewards, Cooks, and Interpreters.*—An emigrant ship carrying as many as 100 steerage passengers, must carry a steerage steward and a steerage cook; if over 300 statute adults, two steerage cooks. A convenient place for cooking must be provided, and an approved supply of cooking apparatus and fuel. Foreign emigrant ships, where one-half or more of the steerage passengers are British, must carry an interpreter (two if the passengers exceed 250), unless the master and officers, at least three, understand and speak English. Failure to comply with this section entails a penalty of £50 on the master.

305. The *Crew* must be efficient, and so certified by the emigration officer, and if any changes afterwards occur before leaving such officer or the superintendent must give written consent, under a penalty of £50 on the master. If the crew be considered inefficient, the owner or charterer can appeal to the Board of Trade, who will appoint two competent persons, at the applicant's expense, to examine into the case, and their unanimous decision is final.

Medical Inspection.

306. Before proceeding to sea the crew and steerage passengers must be inspected, either on board or ashore, by a medical practitioner, if possible, appointed by the emigration officer, to ascertain if any person is unfit to proceed on account of bodily or mental disease. A fee of 20s. per 100 persons inspected must be paid to the said officer by the master, owner, or charterer. The penalty for non-compliance is £100 on the master.

307. Any person unfit to proceed must go ashore under a penalty of 40s. a day, and the emigration officer may give such orders as may be necessary for the purification of the ship; failure to comply entails a penalty of £200 on the master, owner, or charterer.

To each person so landed, or to the emigration officer, the master must pay 1s. 6d. a day per statute adult, until his passage money is returned or he is otherwise disposed of.

308. A person so landed can recover summarily the whole of his passage money, or if a cabin passenger one-half, from the owner, charterer, or passage agent.

Master's Bond.

309. The master of an emigrant ship, with the owner or charterer, or with one other person approved by the chief officer of customs, must enter

into a joint and several duplicate bond, exempt from stamp duty, in the sum of £2,000 to the Crown. If neither the owner nor charterer reside in the British Isles, the bond must be for £5,000, with a condition for repayment of all expenses incurred in rescuing and forwarding steerage passengers in case of shipwreck, or any other cause, except their own neglect or default.

310. The customs officer will certify the due execution on one part of the master's bond, and forward it to the governor of the British possession to which the ship may be bound. Such bond lapses 3 months after the ship's arrival abroad, and 12 months after return of ship and master to the British Isles.

Passengers' Lists.

311. The master of every ship carrying steerage passengers from the British Isles to any port out of Europe, and not within the Mediterranean Sea, or on a Colonial voyage (s. 270), must sign a duplicate list of the passengers, steerage and cabin, in the form specified, countersigned by the emigration officer (if any), and then delivered by the master to the customs officer granting clearance, who will countersign one copy and retain the other. Failure to comply, or false statements, entail a penalty of £100 on the master.

312. If any additional passenger is afterwards taken on board, the same formalities must be observed with a separate list and the master's list. The emigration officer must also certify compliance with the Act. The penalty for non-compliance with this section is £50 on the master.

313. Any person attempting to gain a passage without payment is liable to a fine of £20, or in default imprisonment for 3 months, with or without hard labour; to be enforced summarily, without warrant, before a justice.

Certificate for Clearance.

314. The emigration officer must certify that the requirements of this Act have been complied with, before the ship proceeds to sea. If he refuses to grant such certificate, the owner or charterer can appeal as in s. 305.

315. The master of every passenger ship, bound as in s. 311, must give facilities for inspection at home or abroad, by the emigration or consular officers, under a penalty of £50.

316. If an emigrant ship remains in port more than 7 days after clearance, or touches at any port in the British Isles, the water, provisions, and medical stores must be replenished, any damage repaired, and another certificate of clearance obtained; under a penalty of £100 on the master.

317. In such case, the master must report within 12 hours to the emigration officer, under a penalty of £20, giving full written particulars.

318. If the emigration officer refuse a certificate for clearance, the owner may appeal to a Court of Survey, and on the judge's report the Board of Trade will act.

319. If an emigrant ship proceeds to sea without the certificate of clearance, she is forfeited to the Crown, but the Board of Trade, if they think fit, may release such ship on payment of not more than £2,000 to the Crown.

Passengers' Contracts.

320. Any person, except the Board of Trade and persons under their direct authority, receiving money for a passage, steerage or cabin, in a ship bound as in s. 311, must give in receipt a contract ticket in a specified form, free from stamp duty, under a penalty of £50.

321. For breach of any stipulation in such ticket, the passenger may sue before a Court of summary jurisdiction, which may order the passage money to be returned and £20 in addition.

322. Every passenger must produce his ticket on demand by an emigration officer; and the owner, charterer, or master, must produce the counterpart, under a penalty of £10.

323. Any person altering, inducing any person to part with, damaging, or destroying a contract ticket (unless in case of a consenting cabin passenger) is liable to a penalty of £20.

Regulations as to Steerage Passengers.

324. Her Majesty may, by Order in Council, make sanitary and other regulations for preserving order and promoting health in British emigrant ships; for prohibiting emigration during epidemic diseases; for reducing statutory number of emigrants; for permitting apparatus for distilling water and for requiring medical practitioners to be carried.

325. Any person disobeying or obstructing the master or medical practitioner in the exercise of their duties, or guilty of riotous and insubordinate conduct, is liable to a penalty of 40s. and one month's imprisonment.

326. Sale of spirits on board to steerage passengers is prohibited, under a penalty of £20.

Maintenance after Arrival.

327. Every steerage passenger can claim to be maintained on board for at least 48 hours after arrival at end of voyage, if the ship remains in port so long, or the master is liable to a penalty of £5.

Detention and Wrongful Landing of Passengers.

328. A steerage passenger (s. 311) who has paid his passage if required, and is at the place of embarkation before 6 p.m. on the day appointed in the contract, and is not received on board or provided with a passage in some other equally eligible ship to sail within 10 days, subsistence money being paid meanwhile, may recover summarily his passage money and a sum not exceeding £10.

329. If a ship, emigrant or otherwise, does not proceed to sea before 8 p.m. on the day following that appointed for embarkation, subsistence money must be paid for each statute adult steerage passenger at the rate of 1s. 6d.

for each of the first 10 days detention, and for every subsequent day 8s. If the passengers are maintained on board, such subsistence money is not payable for the first two days after that of embarkation; and if the ship is detained by weather, and by no default of owner, charterer, or master, no such money is payable.

330. The master of any ship landing steerage passengers wrongfully at the wrong port is liable to a penalty of £50.

Provisions in case of Wreck.

331. Where any emigrant ship is wrecked, or is damaged and puts into a port in the British Isles, the master, charterer, or owner must give a written undertaking within 48 hours to the nearest emigration officer that they will embark and convey the steerage passengers in some other eligible ship to sail within 6 weeks, or that the ship will be made seaworthy and continue her voyage within 6 weeks.

In either case the steerage passengers must be lodged and maintained by the owner, charterer, or master, during such delay, or be paid 1s. 6d. a day for each statute adult. In case of further delay, the passenger can recover his passage money summarily. Any steerage passenger refusing to obey the emigration officer's orders to leave a damaged ship is liable to a penalty of 40s., or one month imprisonment.

332. In case of passengers, cabin or steerage, being rescued from a wreck, &c., the expenses thereby incurred may be defrayed by a Secretary of State, a Colonial governor, or British consular officer.

333. Any passenger landed abroad from a similar cause, may be forwarded to his destination by a governor or consular officer (but cannot afterwards claim return of passage money or any compensation), unless the master within 48 hours of such passenger's arrival gives a written undertaking to forward or convey him within 6 weeks thereafter, and does so.

334. All expenses so incurred are a debt to the Crown from the owner, charterer, and master, but shall not exceed twice the total amount of passage money received or due from all the passengers embarked.

335. Insurances effected in respect of steerage passages or compensation, &c., as dealt with in Part III., are valid.

Voyages to the United Kingdom.

336. The master of every ship bringing steerage passengers from any port out of Europe, and not within the Mediterranean Sea, must within 24 hours after arrival deliver a signed formal correct list of passengers, with particulars of any births or deaths, under a penalty of £50.

337. If any such ship bring a greater number of steerage passengers than allowed by the Act in ships leaving the British Isles, the master is liable to a penalty of £10 for each statute adult in excess.

338. Provisions and water must be duly supplied, as in s. 298, or the master is liable to a penalty of £50.

339. *Foreign ships* carrying passengers to or from the United Kingdom must carry out the provisions respecting the *registration of births and deaths*.

340. The *Right of Action* on a contract for a steerage passage or otherwise, for breach of non-performance, is not affected by anything in Part III. of this Act.

Passage Brokers.

341. A *Passage Broker* is defined to be any person concerned in selling or letting steerage passages in any ship bound as in s. 311.

342. Such a person must hold a license, and, with two sureties approved by the nearest emigration officer, must enter into a joint and several duplicate bond to the Crown (see Schedule XIV.), free from stamp duty, for £1,000, one deposited with the said officer, and the other with the Board of Trade. This bond must be renewed on each occasion of obtaining a license. In lieu of two securities the bond of any approved guarantee society is accepted. Non-compliance with this section entails a penalty of £50.

This section does not apply to persons duly authorised by the Board of Trade, or to passage brokers' agents.

343. Application for license must be made to the local licensing authority, with proof of execution of bond and that 14 days clear notice has been given to the Board of Trade, when it will be granted, and notice sent to the Board. In the county of London and in Ireland such authority consists of justices at petty sessions; elsewhere in England, the council of a county borough or district; and in Scotland, the sheriff.

344. Such license, unless forfeited, is in force till the last day of the year of issue, and for 31 days afterwards. Any Court convicting the holder of any offence or breach under Part III. can forfeit such license, sending notice thereof to the Board of Trade.

345. A *Passage Broker's Agent* must hold an appointment signed by such broker, and countersigned by the nearest emigration officer, and show it on demand, under a penalty of £50.

346. A passage broker must display in his office a correct list of his agents or runners, and must, on or before the fifth day in every month (or the fourth if that be a Sunday), transmit a true signed copy to the nearest emigration officer, and report within 24 hours any discharge or engagement, under a penalty of £5.

Emigrant Runners.

347. An *Emigrant Runner* is defined as any person, other than a passage broker or his clerk, who in or within 5 miles of the outer boundary of a port in any way directly or indirectly assists or influences any intending emigrant, with the hope of hire or reward.

348. A person wishing to obtain a license as emigrant runner must apply to the authority in s. 343, who, on a written recommendation of an emigration officer or the head officer of police, may grant it. The emigrant runner must

then, within 48 hours, lodge the same with the nearest emigration officer, who will register his name and address, and on payment of a fee not exceeding 7s. supply a badge. The license is in force till the last day of the year of issue, unless previously revoked by any justice or otherwise forfeited.

349. In case of loss, &c., a new badge may be supplied on payment of 5s.

350. Persons not duly licensed as emigrant runners, or using or forging the badge, and those employing such persons, are liable to a penalty of £5.

351. An emigrant runner must wear his badge conspicuously on his breast, and in case of loss give notice to the officer within 48 hours. He must also give notice of change of address. In default, or for not producing his badge on demand, defacing the same, or allowing any other person to use it, he is liable to a fine of 40s., and forfeiture of his license.

352. Emigrant runners may not take or demand any fee or reward from an intending emigrant, under a penalty of £5.

Frauds in procuring Emigration.

353. Any person fraudulently inducing a person to engage a steerage passage in any ship is liable to a penalty of £20.

354. Any person who falsely represents himself to be a Board of Trade agent, or sells any form of document, &c., issued by that Board or a Secretary of State for assisting persons to emigrate, or in any way makes a false representation in obtaining such assistance, or commits forgery or makes fraudulent alterations, is liable to a penalty of £50.

Emigration Officers.

355. The Board of Trade, or the governors of British possessions, appoint emigration officers and assistants, the latter having the same powers. In their absence the chief officers of customs must carry out their duties.

Legal Proceedings.

356. All fines and forfeitures under Part III. (except under the provisions relating to passenger steamers only) shall be sued for by any emigration officer or chief officer of customs, also in the British Isles by any person or officer authorised by the Board of Trade and Commissioners of Customs; and in a British possession by any person authorised by the governor or customs.

357. Sums of money recoverable for passage, subsistence, damages, compensation, and costs may be sued for before a Court of summary jurisdiction, by any person entitled thereto, or on their behalf by the officials mentioned in s. 356.

358. The Public Authorities Protection Act, 1893, applies to the persons engaged in carrying out Part III. (other than the provisions relating to passenger steamers) in the whole of Her Majesty's dominions and jurisdiction.

Supplemental.

359. In the absence of any agreement to the contrary, the owner is the person ultimately held responsible for any default in complying with the provisions of Part III.

360. Specified forms (*see* Schedule XIV.), or forms as near thereto as possible, are to be used.

Specified fees (*see* Schedule IX.) are to be paid for survey of emigrant ships.

Any person employed under Part III. demanding or receiving, otherwise than by direction of the Board of Trade, any fee or remuneration is liable to a penalty of £50.

361. Abstracts of Part III. will be prepared by the Board of Trade, and on demand the chief officer of customs will supply copies to the masters of emigrant ships, for conspicuous display in at least two places between the decks on his vessel, under a penalty of 40s. a day for every day when not so displayed. The officer will also supply a copy of Part III. of this Act, to be lent for perusal to any steerage passenger requesting it.

362. Harbour and dock authorities of the British Isles may, with the approval of a Secretary of State, make byelaws for dealing with emigrant ships, their passengers, luggage, porters, &c., with a penalty of £5 for breach.

363. A foreign passenger steamer or emigrant ship, with a foreign certificate of survey attested by the British consular officer, is exempt, if the Board of Trade think fit, from any further survey, but this exemption may be withdrawn by an Order in Council where corresponding advantages are not extended to British ships in such foreign port of survey.

Application of Part III. as regards Emigrant Ships.

364. The provisions of Part III. respecting emigrant ships apply to all voyages from the British Isles to any port out of Europe, and not within the Mediterranean Sea.

365. Sections 309, 810, 820 to 824, 841 to 852, and 861 do not apply to Colonial voyages (s. 270).

Where the duration of Colonial voyages is under 8 weeks, sections 293, 303 to 305, and 827 do not apply; and the enactments as to the issue of provisions shall not apply to any steerage passenger who has contracted to furnish his own provisions.

366. The governor of a British possession may by proclamation determine the scale of length of voyages from such possession; fix dietary scales, and what medical stores are necessary; authorise fit persons to make surveys of emigrant ships as by this Act required, and to act as medical practitioners during Colonial voyages.

367. The governors of the Australian Colonies may make rules as to the number of steerage passengers, and their accommodation, in emigrant ships proceeding from one to another of those Colonies.

The governor of any British possession may declare that ships intended to pass within the Tropics from a port in such possession, may convey natives of Africa or Asia as steerage passengers at the rate of one for every 12 superficial feet of passenger deck.

The legislature of Ceylon may regulate the number of steerage passengers who may be carried in any ship proceeding thence to any port in British India.

368. The Governor-General of India in Council may, by any Act passed for the purpose and approved by Her Majesty, declare all or any provisions of Part III. of this Act to apply to the conveyance of steerage passengers from any specified port in British India to any other specified port; and may fix dietary scales, determine the length of the voyage, determine as to persons to undertake the prescribed duties of emigration and customs officers, declare the space necessary for steerage passengers, authorise qualified Indian medical practitioners, and provide for the application of fines, &c.

PART IV.—FISHING BOATS.

Part IV. of the Act embracing Sections 369 to 417, is sub-divided into three parts, and deals with the Registry of Fishing Boats, and the rights and obligations of the owner, skipper, and crew.

369. Defines the *application* of Part IV., and the power of the Board of Trade to exempt trawlers from the provisions thereof, or extend such provisions to any fishing boats. The provisions as to trawlers also apply to vessels employed as tenders or carriers to fishing boats.

370. A "*Fishing Boat*" is any vessel employed in sea-fishing for profit.

371. The *Tonnage* is the gross tonnage in the case of a steam trawler; in any other case the registered tonnage.

372. Part IV. does not, except where expressly provided, apply to Scotland or any British possession.

1. PROVISIONS APPLYING TO ALL FISHING BOATS.

Fishing Boats Register.

373. This section applies to the British Isles and to all British fishing boats used for profit or not.

Every fishing boat must be lettered and numbered, and have official papers, and be entered in the fishing boat register, under a penalty of £20 on the owner and skipper, and the boat may be detained. If not so entered the provisions of this Act will still apply as though she were entered. Her Majesty may, by Order in Council, make regulations for carrying this section into effect.

374. In case of legal proceedings, the register is conclusive evidence of the ownership and nationality of the boat.

375. Decked fishing boats may be detained unless provided with boats and life-buoys according to a specified scale (*see* Schedule XV.), always to be kept fit and ready for use, under a penalty of £100 on the owner or £50 on the skipper, whichever be in fault.

Discipline.

376. Offences committed by skippers, seamen, apprentices, or fishing boys in the sea fishery, are punishable summarily as follows, imprisonment being with or without hard labour:—*Desertion* entails forfeiture of effects and wages, and the deserter is liable for any excess of wages paid to a substitute. *Absence without leave*, forfeiture of 2 days wages, and for every 24 hours of absence either 4 days wages or the expenses incurred in respect of a substitute. *Quitting without leave* after arrival in port, 2 weeks wages. *Wilful Disobedience*, imprisonment for 4 weeks and forfeit of 2 days wages. *Continued Disobedience*, 12 weeks imprisonment and for every 24 hours of such either 6 days wages or expenses of a substitute. *Assault*, 12 weeks imprisonment. *Unlawful Combination* to disobey, &c., 12 weeks imprisonment. *Wilful Damage or Embezzlement* of boat, stores, or cargo, 12 weeks imprisonment and forfeiture of a sum equal to loss sustained. *Smuggling* and causing loss thereby to skipper or owner, forfeiture of an equivalent sum.

377. Nothing in section 876 shall affect the right of remedy by action for breach of contract, wages, &c.

378. Effects and wages forfeited for desertion are to be applied in reimbursing expenses thereby incurred to the skipper or owner, and any surplus is carried to the Consolidated Fund.

379. Deserters may, at the request of the owner or skipper, be sent back to their boats, and expenses incurred may be deducted from their wages.

380. Deserters or disobedient seamen may be arrested by warrant to be obtained from a superintendent or Board of Trade officer, and executed by a constable, who will first bring the offender before such officer for examination.

381. Seamen refusing to proceed to sea, &c., may also be arrested by the skipper, owner, or agent, and conveyed before the said officer.

382. If a seaman or skipper, when not at sea, give 48 hours notice of his intention to be absent, he cannot be compelled to proceed on board.

383. Wages accrue from day to day, and when paid by the voyage, trip, season, or share, the daily amount is calculated by dividing the sum earned by the number of days occupied.

384. In case of a question arising before a Court as to forfeiture of wages for desertion, it is sufficient to show that the person charged was duly engaged and left the boat unlawfully.

Deaths, Injuries, Ill-treatment, Punishments, and Casualties.

385. The skipper of a fishing boat must keep a formal record of the above events, and send it to the superintendent of his port of registry. He must also make a formal report of such, within 24 hours of the boat's arrival, at the port where the voyage ends. The penalty for non-compliance is £20.

386. The superintendent may inquire into the cause and particulars of the occurrence, and endorse the formal report accordingly; he may also take such steps as may be necessary for bringing offenders to justice.

387. *Disputes* as to wages, engagements, &c., and provisions, may be summarily determined by a superintendent.

388. *Where wages are paid by a share in the catch*, the owner must render a detailed account in a form approved by the Board of Trade, under a penalty of £5. In case of dispute, the owner's accounts and books must be produced for inspection, under a penalty of £20.

389. *Agreements for Fishing Vessels in Scotland only.*—The owner or skipper may enter into written agreements with persons employed, that such persons shall be remunerated wholly by a share in the profit of the fishing adventure. Such agreements must be signed in the presence of a superintendent.

390. *Fees* for engagement or discharge of crews before a superintendent are fixed by the Board of Trade, and paid into the Mercantile Marine Fund.

391. *Superintendents* are subject to the control of the Board of Trade.

2. PROVISIONS APPLYING TO ALL FISHING BOATS OF 25 TONS AND UPWARDS.

Apprenticeship and Agreements with Boys.

392. Boys under 18 years of age are not eligible for the sea-fishing service.

393. A boy under 16 years of age (defined as a "*Sea-fishing Boy*") must be bound by an indenture of apprenticeship or agreement,* under a penalty of £20. This section does not affect boys under the age of 16 employed by the day, and with whom there is no written agreement.

394. Superintendents must give every assistance in such indentures and agreements, and shall supply the forms and charge fees as fixed by the Board of Trade.

395. Such indentures and agreements must be made before a superintendent, who will endorse his approval thereon. Such instruments are exempt from stamp duty, and must be made in triplicate, one being kept by the master, one by the boy, and the other by the superintendent.

396. Superintendents may enforce, on behalf of the boy, any stipulations by legal proceedings.

397. The superintendent at the port where such instruments are executed has all the powers given him thereby.

398. Persons receiving or paying money or valuable consideration in connection with such apprenticeships or agreements are guilty of a misdemeanour.

* By an Order in Council, December 12th, 1894, certain forms were prescribed for these indentures and agreements.

8. PROVISIONS APPLYING TO ALL TRAWLERS OF 25 TONS AND UPWARDS.*Engagement of Seamen.*

399. The skipper of every trawler of 25 tons and upwards must enter into an agreement with every seaman of the crew from any port in England or Ireland, under a penalty of £5.

400. This fishing boat's agreement must be in a form approved by the Board of Trade, framed so as to admit of voluntary stipulations as to the advance and allotment of wages, &c.

401. A fishing boat's agreement must be signed by each seaman, after reading, the skipper attesting each signature. The agreement must be in duplicate, one being sent to the superintendent at the port of departure, and the other retained by the skipper. A substitute must also sign the skipper's copy.

402. Such agreements may also be made by the owner or managing owner, and they may be made for service in one or more boats belonging to the same.

403. *Running Agreements*, if the voyages average less than 6 months, may be made to extend over two or more voyages, or any number of weeks, but not beyond the following June 30 or December 31, or arrival of the boat at her destination after those dates.

404. On every return to port the skipper must endorse on the running agreement whether any engagements or discharges of seamen have been legally made or are intended, a false statement entailing a penalty of £5.

405. The owner of such a trawler must within 48 hours of her departure send a report or list of the crew, &c., in a form approved by the Board of Trade, to the superintendent at that port, under a penalty of £5. If the owner goes to sea in the boat, or there is no owner at the port of departure, the report may be made by his agent. The Board of Trade have power to grant exemption from this section.

406. Before leaving port the skipper with a running agreement must send a formal statement to the nearest superintendent of any change in his crew, under a penalty of £5. The Board of Trade have power to grant exemption from this section.

407. Erasures or alterations in agreements must only be made with the consent of all persons interested.

408. A skipper making fraudulent alterations or entries in an agreement, or a copy thereof, is liable to a penalty of £20.

Payment of Wages and Discharge of Seamen.

409. An account of wages and deductions must be furnished by the owner to each member of the crew, in a form approved by the Board of Trade, under a penalty of £5. The parties, however, may agree to dispense with such account.

410. Upon discharge the skipper shall give the seaman a formal certificate of discharge, under a penalty of £5.

411. Seamen improperly discharged may recover compensation in addition to wages due.

412. These provisions as to wages and discharge apply to any form of agreement.

Certificates of Skippers and Second Hands.

413. A trawler of 25 tons and upwards, putting to sea from an English or Irish port, must have duly certificated skipper and second hand, under a penalty of £20 on the owner. Unqualified persons are liable to a penalty of £20, except in case of necessity. If the skipper is unavoidably absent, the superintendent may authorise the second hand to act as skipper for a period not exceeding one month.

414. Certificates of competency as skipper and second hand are granted by the Board of Trade, in the same manner as in Part III. of this Act for master and mate, and they are subject to the same provisions as to examinations, cancellation, inquiries, &c. A certificate as skipper cannot be granted unless the applicant has held a certificate as second hand for at least 12 months.

415. Grants certificates of service to persons employed as skippers before September 1, 1888, or as second hands before July 1, 1888.

416. The Board of Trade may cause a register of skippers and second hands to be kept, as evidence of their being duly certificated.

Conveyance of Fish from Trawlers.

417. The Board of Trade may make regulations for preventing loss or danger to life or limb, in conveying fish from trawlers of any tonnage to vessels carrying such fish to port. The penalty for non-compliance is £10.

PART V.—SAFETY.

Part V. of the Act, embracing Sections 418 to 463, deals with matters affecting the safety and seaworthiness of ships and their cargo.

Prevention of Collisions.

418. Regulations for preventing Collisions.—By Order in Council Her Majesty may, on the joint recommendation of the Admiralty and the Board of Trade, make regulations for the prevention of collisions, dealing with ships' lights and fog signals, and with steering and sailing rules. Whenever foreign ships are within British jurisdiction the regulations in force shall apply to them, and in British Courts, in matters happening within British jurisdiction, foreign ships shall, as to these regulations, be treated as British ships.

419. Such regulations must be obeyed, and vessels are not allowed to use other than the specified lights and fog signals (*see, also*, s. 733). Wilful infringement by the master or owner is accounted a misdemeanour.

If damage occur through non-observance or infringement of these regulations, it will be deemed to have been occasioned by wilful default of the person then in charge of the ship's deck, and the ship so infringing shall be deemed at fault, unless circumstances made a departure from such regulations necessary.

The Board of Trade shall furnish a copy of the regulations to any master or owner who applies for it.

420. The Board of Trade may inspect British and foreign ships, and their lights and fog signals, for the purpose of enforcing these regulations (*see* Schedule XVI.). If found to be defective, the ship shall be detained, till the defects are remedied.

The owner may appeal to the Court of Survey, where the surveyor refuses to furnish a certificate that the ship is properly supplied with lights and fog signals, and the Board of Trade will act on its decision.

The owner may appoint a person to accompany the surveyor, and there is no power of appeal if they agree. The maximum fee for the surveyor is 10*s.* for each visit made to the ship, but no more than two visits can be charged.

421. Local Rules as to lights, signals, and avoiding collisions, by vessels navigating in a harbour, river, or other inland waters, are not affected by this Act. Her Majesty may, by Order in Council, authorise such rules being made.

422. In case of collision between two vessels, it is the duty of the master, or person in charge of each vessel, so far as he can without danger to his own vessel, crew, or passengers, to stay by the other vessel to render assistance to her, or her crew, or passengers, as may be necessary to save them from danger, and also to give the master or person in charge of such other vessel the name of his own vessel, her port of registry, and also the ports from

which and to which she is bound. If he fail to do so without reasonable cause, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default, and he is guilty of a misdemeanour; and if such master, or person in charge, be a certificated officer, an enquiry may be held into his conduct, and his certificate may be cancelled or suspended.

423. When practicable, particulars of a collision must be entered immediately in the official log, signed by the master, and by the mate or one of the crew; in default the master is liable to a fine of £20.

424. If such regulations are adopted by any foreign country, Her Majesty may, by Order in Council, declare that they shall apply to ships of that country, whether within British jurisdiction or not.

Report of Accidents and Loss of Ship.

425. If a steamer cause or sustain any material damage to hull or machinery, or occasion loss of life or serious injury to any person, the owner or master must, within 24 hours after or as soon as possible, send a report of the accident and probable cause thereof to the Board of Trade, under a penalty of £50. This section applies to all British ships, and to foreign steamers carrying passengers between places in the United Kingdom.

426. The owner or ship's husband of any British ship must give the Board of Trade notice within a reasonable time of any apprehended loss of the ship and the probable occasion thereof, under penalty of £50.

Life-Saving Appliances.

427. The Board of Trade may make rules for classifying British ships, and specifying the boats, lifeboats, rafts, buoys, and buoyant apparatus, with their equipments and launching appliances, which each class shall carry. Such rules, however, must receive the sanction of Parliament, and do not apply to fishing boats.*

428. It is the duty of the owner and master to see that his ship is provided accordingly with such life-saving appliances (having regard to the nature

* The Rules made by the Board of Trade under this section require that boats must be placed under davits, fitted and ready for use, having proper appliances for getting them into the water, and sufficient to accommodate all persons on board, allowing 10 cubic feet of boat capacity for each "statute adult." Not less than half the number of boats shall be lifeboats, of whale-boat form.

If the boats under davits do not furnish sufficient accommodation for all on board, then additional boats, life-rafts, or buoyant deck-seats and fittings, must be carried, placed as conveniently for being available, as the ship's arrangements admit of.

In addition, not less than one life-buoy must be carried for every boat placed under davits. Life-belts must also be provided, so that there may be at least one for each person on board, placed so as to be readily accessible to all.

of the ship's employment and avoiding undue encumbrance of the deck) as are best adapted for securing safety of crew and passengers.

429. The Board of Trade may appoint a committee for preparing and advising on such rules, the members being selected by the various leading shipping associations, &c., as specified in Schedule XVII.

430. Wilful breach of such rules, or neglect to keep life-saving appliances in repair and fit and ready for use, entails a penalty of £100 on the owner, and £50 on the master, whichever may be in fault. The person in default may, however, be proceeded against under any other applicable provision of this Act, or otherwise.

431. A surveyor of ships may inspect any ship to see that she is properly provided with life-saving appliances, and give written notice to the master or owner of any deficiency and the requisite remedy, and the ship shall be detained until the surveyor gives a certificate that the ship is properly provided.

General Equipment, Signals of Distress, &c.

432. Every sea-going British steamer carrying passengers, must have her compasses properly adjusted, and (if not wholly used as a tug) must be provided with a suitable fire-hose, under a penalty of £100 on the owner, and £50 on the master, whichever may be in fault.

433. Undue weighting of the safety-valve entails a penalty of £100, in addition to any other liability the person so doing may incur.

434. Her Majesty in Council may make rules as to *Signals of Distress* (see page 69). Any master of a vessel who uses or allows such signals to be used without due cause shall be liable to pay compensation for any labour, risk, or loss sustained in consequence, and such compensation may be recovered like salvage.

435. Every sea-going passenger steamer and emigrant ship shall be provided with the means of making signals of distress at night, including making flames on the ship inextinguishable in water, and of inextinguishable lights capable of being attached to life-buoys. Such signals must be approved by the Board of Trade, and any ship putting to sea unprovided with them entails a penalty of £100 on the owner, and £50 on the master, whichever may be in fault.

Draught of Water and Load-line.

436. The Board of Trade may appoint any person to record the draught of water of any sea-going ship, as shown on the stem and stern-post, and the clear side of the same, upon her putting to sea, and he must forward a copy of such record to the Board of Trade, both being admissible in evidence. The master must also make a similar record in the official log, and produce the same on demand of any chief officer of customs, under a penalty of £20. The master must permit the appointed person to enter the ship to make measurements, &c.; refusal or obstruction entails a penalty of £5.

"*Clear side*" means the height from the water to the upper side of the lowest part of the deck plank from which the registered depth of hold is measured.

437. Every British ship (except coasting ships under 80 tons, fishing ships, and pleasure yachts) shall be plainly marked on each side, amidships, with conspicuous longitudinal lines (called deck-lines), not less than 12 inches in length and 1 inch in breadth, the upper edge indicating the level and position of each deck above water, and they shall be painted white or yellow on a dark ground, or black on a light ground.

438. The owner of every such ship shall mark on each side amidships a circular disc 12 inches in diameter, with a horizontal line, 18 inches long, drawn through its centre (painted as in s. 437), such centre to indicate the *load-line* or maximum depth in salt water to which it shall be lawful to load the ship. The centre of this disc is to be placed at a level, approved by the Board of Trade, below the deck-line, and fixed in accordance with specific tables, subject to approved modifications.

439. If a ship is loaded so as to submerge in salt water the centre of the disc, she is to be deemed unsafe and may be detained.

440. In *foreign-going* vessels the load-line must be marked before entering outwards, or as soon as possible afterwards. The owner shall insert in the form of entry a statement in writing of the distance in feet and inches between the centre of the disc and the upper edges of the deck-lines above it, and in default of such statement, the ship may be detained (*see* s. 443). A copy of this statement shall be entered by the master in the agreement with the crew before signing, and also in the official log. Such load-line must not be altered until the ship returns to a discharging port in the United Kingdom.

441. With a ship in the *coasting trade*, the load-line must be marked before she proceeds to sea; and the owner must, once in every twelve months, immediately before the vessel proceeds to sea, make a statement, in writing, of the distance between the deck and load-lines to the chief officer of customs of the port of registry (*see* s. 443). Similar notice must be given after any renewal or alteration of the disc. In default, there is a penalty of £100. The load-line must not be removed before notice is given of an alteration.

442. Any owner or master neglecting to have his ship marked as above, or loading his ship so as to submerge the centre of the disc in salt water, or any person who conceals, removes, unlawfully alters, or defaces any of the above marks except to avoid capture by an enemy, and any owner who allows inaccurate and misleading marks on his ship, shall incur a penalty not exceeding £100.

443. The Board of Trade shall appoint the Committee of Lloyd's Register, or, at the owner's option, any other corporation or association approved by the Board, or any selected Board of Trade officer, to approve and certify the load-line on ships, and any alterations thereof, and charge fees therefor.

The Board may make regulations for determining the lines or marks to be

used in connection with the disc, to indicate the maximum load-line under different circumstances and seasons; and for granting certificates, and requiring particulars of such, and of the draught and freeboard, to be entered in the official log, and copies of those entries to be delivered. In default of compliance with such regulations, the person responsible is liable to a penalty of £100.

Where the regulations require any such certificate to be delivered, particulars of the disc and deck-lines need not be given in the form of entry or to the chief officer of customs, as required by ss. 440 and 441.

444. Her Majesty may, by Order in Council, legalise enactments as to load-lines made by the legislature of any British possession.

445. Where the Board of Trade certify that equivalent regulations are in force in any foreign country, Her Majesty in Council may direct, that when a ship of that country has complied with such regulations she shall not be detained or liable in a port of the United Kingdom for non-compliance with the provisions of this Act relating to overloading and improper loading.

Dangerous Goods.

446. If any person, not being the master or owner of the vessel, sends or carries, or attempts to send or carry in any vessel, British or foreign, any aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, or any other explosives or goods of a dangerous character, without distinctly marking their nature outside the package, and giving written notice to the master or owner of the nature of such goods, and the name and address of the carrier or sender thereof, at or before the time of shipment, he is liable to a penalty of £100, unless he can show that he was merely an agent, and did not know or suspect that such goods were of a dangerous nature, when the penalty shall not exceed £10.

447. The penalty for falsely describing such goods, or the carrier or sender thereof, is £500.

448. The master or owner of any British or foreign ship may refuse to take on board any parcel which he suspects to contain dangerous goods, and may require it to be opened; or, if shipped without notice, such dangerous goods may, without any liability, be thrown overboard.

449. Where such dangerous goods are improperly sent, or falsely described as to nature, or the sender or carrier thereof, they may be forfeited to any Court having Admiralty jurisdiction, and be disposed of as the Court direct; and that without any notice to the owner of the goods, and without any evidence that such owner has in any way offended against the above provisions.

450. These provisions are in addition to, and not in substitution for, any other like enactments, but no person can be sued or prosecuted twice in the same matter.

Loading of Timber.

451. If a British or foreign ship arrives, between the last day of October and 16th April, in any port in the United Kingdom from any port out of the United Kingdom, carrying a deck cargo of wood goods, the master, or owner (if privy to the offence), shall be liable to a penalty of £5 for every 100 cubic feet of such deck cargo.

The master or owner is not liable if it be shown that the deck load was carried on account of some leak or other damage to the ship, or the ship arrived later than the last day of October owing to unforeseen circumstances, or arrived before 16th April owing to an exceptionally favourable voyage. And these provisions do not affect any ship not bound to a United Kingdom port which puts into one owing to stress of weather, or for repairs, &c., and not for delivering her cargo.

"Wood Goods" are defined as square, round, waney, or other timber; pitch pine, mahogany, oak, teak, or other heavy wood goods; any more than five spare spars; or any deals, battens, or other light wood goods to a height exceeding 3 feet above the deck.

Carriage of Grain.

452. Every precaution must be taken to prevent the shifting of a grain cargo laden on any British ship. In default, the master and any agent of the owner charged with the loading or despatch are each liable to a penalty of £800, and the owner is also so liable unless he took all reasonable means, and was not privy to the breach of this section.

453. A British ship loading a grain cargo in the Mediterranean or Black Sea, bound to ports outside the Straits of Gibraltar, or loading on the coast of North America, must carry out the precautions set out in Schedule XVIII. to prevent shifting. Unless such precautions are taken, or the ship is loaded in accordance with regulations or plans approved by the Board of Trade, the owner, master, and agent are liable to the penalty by s. 452.

Nothing in this section exonerates a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions (though not here mentioned) for preventing a grain cargo from shifting.

454. Before any British ship, laden and bound as in s. 453, leaves her final port of lading, or within 48 hours after leaving, the master must cause a notice to be delivered to the British consular officer or chief officer of customs at that port, stating his draught of water and clear side; with particulars of the grain, and the quantity in cubic feet, quarters, bushels, or tons weight; the mode of stowage; and precautions taken against shifting. A similar notice must be delivered to the customs officer on arrival in the United

Kingdom, to be forwarded to the Board of Trade. Non-compliance, or wilful omission or false statement, entails a penalty of £100.

The Board of Trade has power to exempt ships from this section.

455. Officers appointed by the Board of Trade have power to inspect any grain cargo and mode of stowage.

456. "*Grain*" is defined as any corn, rice, paddy, pulse, seeds, nuts, or nut kernels; and a "*ship laden with a grain cargo*" means a ship in which the grain cargo exceeds one-third of the registered tonnage, computed at the rate of 100 cubic feet or 2 tons weight for each ton of the registered tonnage.

Unseaworthy Ships.

457. Every person sending, or attempting to send, or being party to sending, or attempting to send, a British ship to sea in a state whereby the life of any person is likely to be endangered, is guilty of a misdemeanour, unless he proves that he used all reasonable efforts to make the ship seaworthy, or that sending her out was, under the circumstances of the case, reasonable and justifiable, and the person charged may give evidence on his own behalf. Any master knowingly taking such ship to sea is guilty of a misdemeanour, unless his act was justifiable and reasonable, and he also can give evidence on his own behalf. Prosecution under these powers must be (except in Scotland) with the consent of the Board of Trade, or the governor of the British possession where it is instituted. The misdemeanour is not punishable on summary conviction.

458. There is an implied obligation in law on the part of the owner of a ship with the master and crew, that the owner, master, and agents will see that the ship is in every way seaworthy for the voyage she is to take, and will keep her in that condition during the voyage, unless the sending of the ship to sea in an unseaworthy state was, under special circumstances, reasonable and justifiable.

459. 1. When a British ship in a port of the United Kingdom is "unsafe," that is, unfit to proceed to sea without serious danger to human life by reason of defective condition of hull, equipments, or machinery, or by reason of overloading or improper loading:—

- (a) The Board of Trade may provisionally detain her.
- (b) The Board shall serve on the master a statement of the grounds of detention, and may appoint a competent person or persons to survey and report.
- (c) On receipt of such report the ship may either be released, or, if the ship be unsafe, she may be absolutely detained, or until the conditions as to repairs or loading imposed by the Board are complied with.
- (d) Before final detention a copy of the report shall be served on the master, and the owner or master may, within seven days from such service, appeal to the Court of Survey.

- (e) On a provisional detention, the owner or master may require that the Board of Trade surveyor shall be accompanied by one of the persons on the list of assessors, and if the surveyor and assessor agree, the Board shall be bound by their decision; but if they differ, the Board may act as they deem right, without prejudice to the right of the owner and master to appeal to the Court of Survey.
- (f) The Board has power to refer the matter of a ship's detention to the Court of Survey.
- (g) If the Board be satisfied that the ship is not unsafe, it may order her release conditionally or unconditionally.

2. Any person appointed by the Board (here referred to as a "detaining officer") has the same power as the Board in carrying out the provisions of this section.

3. A detaining officer shall forthwith make a report to the Board of any ship detained or released by him under these provisions.

4. Orders for detention to be served on the master.

5. A ship detained not to be released by reason of subsequent closure of her British register.

6. The Board of Trade, with the consent of the Treasury, may appoint fit persons to act as detaining officers, who shall have the same power as a Board of Trade inspector.

7. A detaining officer and an authorised surveyor have the same power as a person appointed by a Court of Survey to survey a ship.

460. The Board of Trade is liable to the owner for the costs and damages of an improper detention, and an action for such may be brought against the Secretary of the Board in his official capacity; but the owner of an unsafe ship is made liable for all Board of Trade costs of survey and detention, such costs to be recoverable as salvage.

461. On a complaint made to the Board of Trade or a detaining officer that a ship is unsafe, the complainant may be required to give security for costs and damages, unless the complaint is made by one-fourth (not less than three) of the seamen of the ship, and is not apparently frivolous or vexatious, and made a sufficient time before sailing to ascertain whether the ship ought to be detained or not. If on any detention owing to complaint the Board has to pay costs or damages, then the complainants are liable to repay the Board.

462. When a foreign ship in a port in the United Kingdom is overloaded or improperly loaded, she may be detained and surveyed as above provided on due notice to the nearest consular officer of the State to which the vessel belongs, who has power to appoint a person to accompany the Board of Trade surveyor, and the Board will act on their report as in (e) s. 459. If an appeal be made to the Court of Survey the consular officer may appoint a competent person as assessor in place of the Board of Trade assessor.

463. 1. When a seaman or apprentice is proceeded against for desertion, or for being absent from his ship, without leave; and one-fourth of the seamen (or not less than five seamen if the number of seamen exceeds twenty) allege that such ship by reason of unseaworthiness, overloading, improper loading, defective equipment, or any other cause, is unfit to proceed to sea; or that the accommodation is insufficient; the Court having cognizance of the case shall ascertain if such allegation is true. If satisfied that it is groundless, the Court shall adjudicate on the case; if not satisfied, shall order the ship to be surveyed.

2. Before any seaman or apprentice can take advantage of this provision he must have complained to the master.

3. The Court may appoint a Board of Trade surveyor, or any other impartial surveyor, to survey the ship, and also to answer any question put by the Court.

4. The surveyor must report to the Court in writing, and such report is to be communicated to the parties, and unless proved to be erroneous, the Court shall act upon it.

5. Surveyors appointed as above have all the powers of Board of Trade inspectors, and

6. Are paid by a prescribed scale of fees.

7. If it is proved that the ship is fit to go to sea, and that the accommodation is sufficient, the costs of the survey shall be paid by the persons on whose demand or allegation it was obtained, and may be deducted out of their wages.

8. If the allegation is proved to be true, the costs of survey are to be paid by the master or owner, who are also liable to pay compensation to the complainants for detention.

PART VI.—SPECIAL SHIPPING INQUIRIES AND COURTS.

Part VI. of the Act, embracing Sections 464 to 491, deals with the powers of the Board of Trade and the Courts, and their constitution, in connection with shipping casualties.

Inquiries and Investigations as to Shipping Casualties.

464. A *Shipping Casualty* is defined as occurring when any ship is lost, abandoned, or materially damaged on or near the coasts of the United Kingdom; or when any ship has been stranded or damaged on or near the coasts of the United Kingdom, and any witness is found in the United Kingdom; or when any ship causes loss or material damage to any other ship, or when any such casualty happens, involving loss of life, on or near such coasts; or when such loss or abandonment, damage, or casualty happens elsewhere, but any witness thereof is found in the United Kingdom; or when a British ship is lost, or is supposed to have been lost, and any evidence can be obtained in the United Kingdom as to the circumstances under which she proceeded to sea, or was last heard of.

465. A *preliminary inquiry* may be held respecting a shipping casualty by the inspecting officer of the coastguard or chief officer of customs, or by any person appointed by the Board of Trade, and for such inquiry they shall have the powers of a Board of Trade inspector.

466. 1. If it appear to him that a formal investigation is necessary, or if the Board of Trade so direct, he shall apply to a Court of summary jurisdiction to hold a formal investigation.

2. A wreck commissioner shall, at the request of the Board of Trade, hold a formal investigation.

3. The Court shall be assisted by one or more *assessors* of nautical, engineering, or other special skill or knowledge, appointed from a list approved by a Secretary of State according to prescribed rules.

4. Where a formal investigation may lead to any question as to cancelling or suspending the certificate of master, mate, or engineer, the Court shall be assisted by not less than two assessors having experience in the merchant service.

5. It is the duty of the person who applied for a formal investigation to superintend the management of the case.

6. After hearing the case the Court shall send a report of it to the Board of Trade, containing a full statement of the case, and of their opinion thereon, accompanied, if necessary, by extracts from the evidence, and other observations.

7. Each assessor must sign the report or give reasons in writing for dissenting therefrom.

8. The Court may make an order as to costs of the investigation.

9. The Board of Trade may pay the costs.

10. The Court shall have all the powers of a Court of summary jurisdiction.

11. If a charge is made against any person he shall have an opportunity of making a defence.

12. Such investigations are to be held in some town hall, assize or county court, or public building, or in some other suitable place.

18. In investigations in Scotland the Board of Trade may remit the same to the Lord Advocate, to be prosecuted in such manner as he may direct.

467. The list of assessors remains in force for 8 years only, and the Secretary of State may add or withdraw any name.

468. If loss of life arises from any casualty to a fishing vessel's boat, the Board of Trade may cause an inquiry or formal investigation to be held.

Power as to Certificates of Officers, &c.

469. The Board of Trade may suspend or cancel the certificate of any master, mate, or engineer convicted of any offence.

470. 1. Such certificate may be suspended or cancelled—

(a) By a Court (or Naval Court) holding a formal investigation, if it find that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by the holder's wrongful act or default, but if a Court of summary jurisdiction one at least of the assessors must concur in the finding.

(b) By a Court holding the enquiry, if they find that the holder is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or in case of collision he has failed to comply with Part V. of this Act.

(c) By any Naval or other Court, when under the powers given by this Part of this Act the holder is superseded or removed by that Court.

2. The decision as to cancelling or suspending shall be stated in open Court.

3. A full report of the proceedings, together with the evidence and the certificate, shall be forwarded to the Board of Trade.

4. No certificate can be suspended or cancelled unless a copy of the report, or a statement of the case upon which the investigation or inquiry is ordered, has been furnished to the owner of such certificate before the investigation or inquiry.

471. 1. If the Board of Trade, on the report of a Local Marine Board or otherwise, have reason to believe that any master, mate, or engineer is from incompetency or misconduct unfit to discharge his duties, or in case of collision has failed to render assistance or give the required information (Part V.), the Board may cause an inquiry to be held.

2. The Board may appoint a person to hold the inquiry, or it may be held by a Local Marine Board or a Court of summary jurisdiction.

8. When the inquiry is held by an appointed person or a Local Marine Board, that person or board must have the assistance of a local stipendiary magistrate, otherwise of a legal assistant appointed by the Board of Trade, and they shall have all the powers of a Board of Trade inspector. The person charged must be given an opportunity of making his defence either in person or otherwise. The costs to be in the discretion of the Court, which is to make a report of the case to the Board of Trade.

4. Where held by a Court of summary jurisdiction, the inquiry shall be conducted and the results reported, and the Court shall have the like powers, as in the case of a formal investigation into a shipping casualty.

472. In England and Ireland the High Court, in Scotland the Court of Session, and elsewhere in Her Majesty's dominions any Colonial Court of Admiralty or Vice-Admiralty Court, have power at the instance of the owner, or his agent, the consignee, a certificated mate, or one-third or more of the crew, to remove the master, if it be shown by evidence on oath to be necessary. They may also appoint a new master in his stead, but only with the consent of the owner, agent, or consignee if they be within the Court's jurisdiction. The Court may require security for costs, and make any order regarding the same.

473. Every master, mate, or engineer, whose certificate is cancelled or suspended, shall deliver the same to the Court or the Board of Trade, under penalty of £50.

474. The Board of Trade may, if they think just, re-issue and return any cancelled or suspended certificate, or shorten the time of suspension, or grant a new certificate of the same or a lower grade.

Rehearing of Investigations and Inquiries.

475. The Board of Trade may order the rehearing of a formal investigation into a shipping casualty, or an inquiry into an officer's conduct, if new and important evidence has been discovered, or there is suspicion of a miscarriage of justice. The case will be reheard, either by the same Court, or by the wreck commissioner, by the High Court in England or Ireland, or by the Senior Lord Ordinary or a judge in the Court of Session in Scotland.

Where an application for a rehearing has not been made or has been refused, with respect to the cancelling or suspension of a certificate, the appeal shall lie in England or Ireland (or from a Naval Court) to the High Court, and in Scotland to the Court of Session.

Rehearings and appeals must be conducted in accordance with prescribed rules.

Supplemental Provisions as to Investigations and Inquiries.

476. Where there is a Marine Board, and a stipendiary magistrate is a member thereof, all formal investigations into shipping casualties shall be, if possible, held before him, and he shall be paid such remuneration as a

Secretary of State, with the consent of the Board of Trade, shall direct, out of the Mercantile Marine Fund.

477. The Lord Chancellor has power to appoint not more than three *Wreck Commissioners* for the United Kingdom; and in Ireland the Lord Chancellor of Ireland may appoint a wreck commissioner if necessary.

478. *Colonial Courts*.—The legislature of any British possession may authorise any Court or tribunal to make inquiries into shipping casualties and the conduct of officers, but not into any matter which has already been legally decided in any part of Her Majesty's dominions. Such Court or tribunal is empowered to suspend or cancel certificates.

The Board of Trade may order the rehearing of any such inquiry, as in s. 475, but if an application for rehearing is not made or is refused an appeal shall lie to the High Court in England, but not from any order or finding regarding a ship registered abroad, or regarding certificates not granted under this Act. The appeal must be conducted in accordance with prescribed rules.

479. The Lord Chancellor may (with the consent of the Treasury as regards fees) make general *Rules* for regulating the procedure in carrying into effect the enactments relating to formal investigations, rehearings, and appeals, which shall have the same force as though a part of the Act. (See Chapter on "Inquiries into Shipping Casualties," page 159). Any rule as to rehearings, appeals, appointment of assessors, and place of investigation, must be laid before Parliament.

Naval Courts on the High Seas and Abroad.

480. Any officer in command of any of Her Majesty's ships on a foreign station, or, in the absence of such, a British consular officer, may summon a *Naval Court* to investigate complaints by officers or crews of British ships; or matters involving the interests of the owners of such ships or their cargoes; or the circumstances, where any such ship has been wrecked, abandoned, or lost at or near the place where such officer is, or when the crew of any such ship wrecked, lost, or abandoned arrives at that place.

481. A *Naval Court* shall consist of not more than five and not less than three members; one, if possible, being a naval officer, from lieutenant upwards, one a consular officer, and one a British merchant captain, and the rest shall be naval officers, merchant captains, or British merchants, but the master or consignee of the ship in question shall not be included. The officer of highest rank to be president.

482. The Court has power to hear and investigate in the before-mentioned cases, to compel the attendance of witnesses and the production of documents; but any person accused must have an opportunity of making a defence.

483. The Court may, if unanimous that it is necessary so to do, supersede the master, and appoint another in his stead, with the consent of the consignee of the ship if at that place; it may cancel or suspend any officer's certificate; it may discharge a seaman, and order his wages to be paid to

the owner of the ship as compensation, or into Her Majesty's Exchequer; it may decide questions as to wages, fines, or forfeitures, and can order payment of the costs of the imprisonment and maintenance of any seaman or apprentice out of his present or future wages; it may send officers, seamen, and apprentices home for trial (*see s. 689*).

A Naval Court has, also, the same powers as a Court of summary jurisdiction in dealing with offences of masters or crew; but if they order imprisonment, such order must be confirmed in writing by the senior naval or consular officer at the place where the Court is held, who shall approve the place of imprisonment, and have copies of all sentences forwarded to the senior Naval officer of the station.

A Naval Court may order the survey of a ship which is the subject of an investigation before them.

The costs of the proceedings are imposed at the discretion of the Court, which may also order the payment of compensation in case of the complaint being proved to be frivolous or vexatious.

All orders made by the Court shall, if possible, be entered in the official log and signed by the president.

484. The Court shall report to the Board of Trade, with a statement of the proceedings and the evidence; an account of the wages of any seaman discharged by it; a report of any loss, wreck, or abandonment, with an opinion as to the cause thereof; and as to the conduct of the master and crew. Such report is to be signed by the president.

485. The penalty for preventing any complaint or obstructing any such investigation is £50, or imprisonment, with or without hard labour, for twelve weeks.

486. The provisions as to Naval Courts apply to all British and Colonial sea-going ships, their owners, masters, and crews.

Courts of Survey.

487. A Court of Survey, for a port or district, shall consist of a judge sitting with two assessors. The *judge* may be a wreck commissioner, a stipendiary or metropolitan police magistrate, judge of County Court (in Scotland, a sheriff), or other fit person named in a list approved by a Secretary of State. The *assessors* shall be persons of nautical, engineering, or other special skill and experience. One assessor shall be appointed by the Board of Trade, and the other shall be summoned by the Recorder of the Court of Survey, out of a list of persons periodically nominated by the Local Marine Board, or other authority.

The County Court registrar (in Scotland, sheriff clerk), or other fit person appointed by a Secretary of State, shall be registrar of the Court of Survey, and shall immediately upon receiving notice of appeal summon a Court.

488. Every case shall be heard in open Court. The judge and assessors may survey the ship, and the judge may appoint any competent person to

survey the ship and report thereon. Any person so authorised has full power to inspect every part of the ship, her machinery, equipments, and cargo, and may require the removal of any cargo, ballast, or tackle. Any person impeding such judge, assessor, surveyor, or person in the execution of the survey, is liable to a penalty of £10.

The judge has power to order release or final detention, but one of the assessors must concur in the latter judgment, or the ship will be released. The owner and master, or any person appointed by them, or anyone appointed by the Board of Trade, may attend any survey or inspection made under order of the Court. A report of the proceedings, as directed by the rules, is to be forwarded to the Board of Trade, and each of the assessors must sign it, or he must state his reasons for declining to do so.

489. The Lord Chancellor may (as in s. 479) make general rules for carrying out these provisions, and to regulate the procedure of the Courts of Survey, such rules to have the same force as the Act (*see* page 159).

490. *Scientific Referees.*—When an appeal involves a question of construction or design, of scientific difficulty or important principle, the matter may be referred to one or more scientific referees, approved by a Secretary of State, who shall have the power of the judge of a Court of Survey. They may be selected by agreement between the Board of Trade and the appellant, or in default by a Secretary of State. The Board may require security for costs, &c.

491. Such *Payments to Officers of Courts* shall be made as the Treasury may direct.

PART VII.—DELIVERY OF GOODS.

Part VII. of the Act, embracing Sections 492 to 501, deals with the delivery of goods from ships, and lien for freight.

Delivery of Goods and Lien for Freight.

492. Defines the meaning of such terms as goods, wharf, warehouse, wharfinger, warehouseman, &c.

493. Where owners of goods imported from foreign parts into the United Kingdom fail to make entry thereof, or to take delivery or have same landed as hereinafter mentioned, the shipowner may make entry of and land or unship the said goods at the times and subject to the conditions following:—

1. If a time is mentioned in the charter party, bill of lading, or agreement, then at any time after such time has passed.
2. If no such time is mentioned, then after 72 hours from the report of the ship, exclusive of Sunday or holiday.
3. If landed as above, they should if possible be landed at the wharf or warehouse named in the charter party, bill of lading, or agreement (if any).
4. If none is named, then on some wharf or in some warehouse, as customary for such goods.
5. The owner of the goods has the prior right to land and take delivery at any time before the shipowner has done so.
6. If any goods are landed for assortment, and the owner makes entry thereof and declares himself willing to take delivery, such goods shall be delivered within 24 hours after assortment, and the expenses of landing, &c., shall be borne by the shipowner.
7. If before any goods are landed the owner thereof has made entry for landing at some wharf or warehouse other than where ship is discharging, and has offered and been ready to take delivery thereof, but the same have not been so delivered, and no notice has been given to the owner when they can be delivered; then the shipowner shall, before landing such goods, give the owner of the goods 24 hours notice in writing of his readiness to deliver the goods, and if in default he lands the same, it is at his own risk and expense.

494. When any goods are landed, and a written notice is given by the shipowner to the wharfinger or warehouseman that the goods are to remain subject to a lien for freight, &c., to an amount mentioned, such lien shall continue until discharged, or any loss to the shipowner will have to be made good.

495. This lien shall, however, be discharged on proof to the wharfinger or warehouseman, that the amount claimed has been duly paid, or by the deposit with him of the sum claimed.

496. If no notice is given within 15 days by the person paying such deposit to retain it, then the wharfinger or warehouseman may pay the deposit to the shipowner. If such notice as aforesaid to retain the deposit or a part thereof is served, then the wharfinger or warehouseman shall immediately apprise the shipowner thereof, and tender him any admitted amount, and then retain such deposit or balance thereof for 30 days, and if in the meantime the shipowner has not commenced an action to recover the said sum, and served him with notice thereof, then he shall pay the same over to the owner of the goods, and be discharged from all liability.

497. If the lien is not discharged, and no deposit paid, then after 90 days the wharfinger or warehouseman may sell the goods by auction, but before selling shall advertise such intended sale in two local newspapers; and, if the name and address is known, send notice by post to the owner of the goods. If the goods be perishable, they may be sold as soon as it be thought fit.

The title of a *bona fide* purchaser is not invalidated should such notice not be sent.

498. Moneys arising from such a sale shall be applied in the following manner:—1. Any customs or excise duties owing thereon. 2. Expenses of sale. 3. Wharf or warehouse charges for the goods, and the amount claimed by the shipowner. 4. Surplus to the owner of the goods.

499. The wharfinger or warehouseman may charge his rent, and shall do all necessary acts for preserving the said goods, and shall have a lien on the goods for such rent and expenses.

500. The wharfinger or warehouseman is not liable to take any goods other than such as he is usually liable to take, nor is he bound to see to the validity of any lien claimed.

501. Nothing above mentioned shall take away or abridge any power given by any local Act to any harbour authority, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor take away or diminish any rights or remedies given to any shipowner or wharfinger, or warehouseman by any local Act.

PART VIII.—LIABILITY OF SHIPOWNERS.

Part VIII. of the Act, embracing Sections 502 to 509, deals with the liability of shipowners in respect of loss of life or personal injury, or in case of loss or damage to cargo or any other vessel, by reason of improper navigation. Its provisions apply to the whole of Her Majesty's dominions.

502. The owner of a British seagoing ship is not liable at all for any loss or damage happening without his actual fault, or privity, to any goods on board by reason of fire; nor for any gold, silver, diamonds, watches, jewels, or precious stones by reason of robbery or embezzlement thereof, unless the owner or shipper has, at the time of shipping, declared in writing the true nature and value thereof.

503. The owners of a ship, British or foreign, shall not be answerable in damages in respect of loss or damage, if it take place without their actual fault or privity, beyond the following amounts:—

- (a) In respect of loss of life or personal injury, either alone or together with loss of or damage to vessels, goods, merchandize, or other things, an aggregate amount not exceeding £15 for each ton of their ship's tonnage; and
- (b.) In respect of loss of, or damage to, vessels, goods, merchandize, or other things, whether there be in addition loss of life or personal injury or not, an aggregate amount not exceeding £8 for each ton of their ship's tonnage.

In case of sailing ships the registered tonnage is to be taken, and in steamships the gross tonnage, without deducting engine-room, but no space appropriated to the use of seamen or apprentices is to be included. In computing the tonnage of foreign ships, they are to be measured according to British law, but where such is not possible the surveyor-general, or the chief measuring-officer if abroad, shall on evidence furnished state his opinion of the ship's tonnage.

Owners are liable to the extent named above for each loss or damage arising on distinct or separate occasions.

504. If several claims for loss of life or personal injury are made on the shipowner, he may commence proceedings in any of the superior Courts to determine the amount of his liability, and that Court may distribute the amount rateably among the claimants, and may stay any other proceedings pending. It may also require security as to costs, &c.

505. Money paid for loss or damage, and costs incurred, is considered as money paid for the ship's use in accounts between part owners.

506. An insurance effected against any of the events above named, and occurring without actual fault or privity, are not invalid by the nature of the risk.

507. In any proceedings with respect to loss of life, the passenger lists shall be received as evidence of the person being on board at the time of death.

508. If any master or seaman is a part owner of the ship, he is not relieved from any liability in his capacity of master or seaman.

509. Part VIII. of the Act applies to the whole of Her Majesty's dominions.

PART IX.—WRECK AND SALVAGE.

Part IX. of the Act, embracing Sections 510 to 571, deals with the rescue of life and property from vessels wrecked, stranded, or in distress, and with the disposal of such property and the removal of wrecks. It also contains provisions with regard to marine store dealers, marking of anchors, and salvage.

Vessels in Distress.

510. "*Wreck*" is defined to include flotsam, jetsam, lagan, and derelict, and "*Salvage*" includes expenses properly incurred by the salvor therein.

511. When a vessel is wrecked, stranded, or in distress, on the coast of the United Kingdom, the receiver of wrecks for the district shall assume command of all persons present, for the preservation of the ship, her equipment, crew, and cargo, and any person disobeying his orders incurs a penalty of £50. The receiver shall not, however, interfere without permission between the master and his crew in the management of his ship.

512. The receiver has power to demand the assistance of bystanders, with or without their boats, &c., and waggons, carts, or horses, and any person disobeying is liable to a penalty of £100.

513. When a ship is in distress, all persons assisting may, with or without horses and carriages, pass over any adjoining lands, and deposit goods saved thereon. Any damage occasioned thereby shall be recoverable as salvage; and any occupier, or owner, refusing permission, or impeding the work, is liable to a penalty of £100.

514. The receiver may apprehend any person who plunders, or causes disorder or obstruction, and may use force in suppressing the same, and is not liable to persons killed or hurt in resisting his orders.

515. If any wrecked vessel is plundered, damaged, or destroyed by a tumultuous mob, the district where it occurs shall be liable for the damage sustained.

516. In the absence of the receiver, his place shall be filled in the following order, viz., chief officer of customs, principal officer of coastguard, officer of inland revenue, sheriff, justice of the peace, and naval or military full pay officer. The officer so acting is considered as the receiver's agent, but is not entitled to any fees, nor is he to be deprived of any right to salvage.

517. The receiver, or at the request of the Board of Trade a wreck commissioner or deputy, or in their absence a justice of the peace, shall examine on oath any person who can give an account of the wreck or the cargo or stores, with particulars of the ship, master, owners, cargo, voyage, and cause of disaster, &c. The person holding it shall take the examination down in writing, and send one copy thereof to the Board of Trade, and another to Lloyd's in London for public inspection, and such person shall have all the powers of a Board of Trade inspector.

Dealing with Wreck.

518. Any person finding any wreck, in the United Kingdom, shall give notice forthwith to the receiver in such district, and deliver up possession; or in default shall forfeit all right to salvage, and is liable to pay twice the value of the wreck, and a penalty of £100. If the finder be the owner, he must give notice and a description thereof to the receiver, under a penalty of £100.

519. All articles washed ashore, or lost, or taken from such a ship, must, under a penalty of £100, be delivered to the receiver, even by the owner, and the receiver is empowered to take possession by force.

520. Within 48 hours of taking possession of any wreck, the receiver shall post a description in the nearest custom house, and if, in his opinion, it exceed £20 in value, shall also send a copy of such description to Lloyd's in London to be posted up.

521. The owner of any wreck, on establishing his claim within one year from the receiver taking possession, is entitled to delivery of the wreck or proceeds, on payment of salvage, fees, and expenses.

In case of the wreck of a foreign vessel, the consul-general or any authorised consular officer of the country to which the ship or the owners of the cargo belong, shall, in the absence of owner, master, or agent, have the custody and disposal of articles found on the coasts or brought into any port of the United Kingdom.

522. Where any wreck is under the value of £5, or is damaged or perishable, or not worth warehousing, the receiver may sell it, and hold the proceeds, after payment of expenses of sale, for disposal as if unsold.

Unclaimed Wreck.

523. Her Majesty is entitled to all unclaimed wreck in her dominions, except where the right has been granted to any other person.

524. Where any person is entitled to unclaimed wreck, he shall deliver particulars of his title and address to the receiver of the district, and in case of any wreck therein the latter shall within 48 hours of taking possession send a description thereof to such address.

525. If any wreck is unclaimed by the owner for one year, the receiver is, after payment of all expenses and claims due thereon, to hand same over to the person who can prove a title thereto. But if the wreck is not claimed by any such person, the receiver shall sell it, and after payment of expenses,

fees, and salvage, pay the balance to the receivers-general of the Duchies of Lancaster or Cornwall, or if they do not claim it then to the Mercantile Marine Fund.

526. Any dispute with the receiver, &c., as to title to unclaimed wreck, may be determined in the same manner as in salvage disputes. But any party unwilling to have it so determined, or dissatisfied with the decision, may, within 8 months after the expiration of one year from the receiver taking possession, or from the date of decision, take proceedings in any Court having jurisdiction.

527. Such delivery of wreck by the receiver does not prejudice any question which may be raised by third parties as to title.

528. The Board of Trade, with the consent of the Treasury, may purchase out of the revenue arising under this Part of the Act, on behalf of Her Majesty, any rights to wreck.

529. No Admiral or other person exercising Admiralty jurisdiction shall interfere with any wreck except as authorised by this Act.

Removal of Wrecks.

530. A harbour or conservancy authority is empowered, in the case of a wreck forming an obstruction or danger to navigation, to take possession and raise, remove, or destroy it; to mark it by lights or buoys; and to sell it, and hold the proceeds, after payment of expenses of sale, in trust for persons entitled thereto, provided at least 7 clear days notice of such sale be advertised in some local newspaper; if the property be liable to perish or deteriorate it may be sold at once.

Before such sale the owner may claim delivery of the property on payment of the fair market value, as settled by agreement with the authority, or by some person named by the Board of Trade, and the sum paid is deemed to be the proceeds of sale.

531. In case of wreck outside the district of such authority, the general lighthouse authority for the place in or near which the obstruction is situate shall have the same powers, and any expenses incurred beyond the sum realised by sale shall be paid out of the Mercantile Marine Fund.

532. Powers of removal and sale extend to tackle, equipments, cargo, stores, or ballast.

533. The Board of Trade shall decide where any question arises as to removal of wreck between a local authority and a general lighthouse authority.

534. The powers thus conferred for removal of wrecks are in addition to any other similar powers already held.

Offences in respect of Wreck.

535. Any person taking any wreck, &c., from the United Kingdom and selling the same in a foreign port is guilty of felony, and liable to penal servitude for 8 to 5 years.

536. Any person attempting to board any ship in distress without permission of the person in authority incurs a penalty of £50, and the master may repel any such intending boarder by force. And every person who on a shipwreck impedes, or obstructs salvage, or secretes, defaces, or wrongfully removes any wreck, shall, in addition to any other penalty or punishment, incur a penalty of £50.

537. A receiver may apply to a justice of the peace for a search warrant, where he suspects some person to be wrongfully in possession of wreck, and may thereupon search for and seize the same. An informer is entitled to such sum as the receiver may allow, but in no case to exceed £5.

Marine Store Dealers.

538. Every person dealing in, buying, or selling anchors, cables, sails, old junk, old iron, or marine stores of any kind, shall have his name, with the words "Dealer in Marine Stores," painted on every warehouse and place of deposit belonging to him, in letters not less than 6 inches in length, under a penalty of £20.

539. Every marine store dealer shall keep proper books, and enter therein an account of all marine stores purchased or received by him, with the time of purchase, and the name, description, and address of the seller, under a penalty of £20 for a first offence, and £50 for every subsequent offence.

540. He shall not purchase marine stores from any person apparently under 16 years of age, under a penalty of £5 for the first offence, and £20 for every subsequent offence.

541. He shall not cut up or unlay any cable over 5 fathoms in length without obtaining written permission to do so from a justice of the peace on making a declaration describing the cable and the seller, or from the receiver of the district upon production of the declaration, under a penalty of £20 for the first offence, and £50 for every subsequent offence.

542. Every such permit must be published once in some local newspaper a week at least before cutting up or unlaying such cable; and any person suspecting that such cable is his may obtain a warrant from a justice of the peace for the inspection of such cable, and the marine store dealer's books. In default, the dealer is liable to a penalty of £20 for the first offence, and £50 for every subsequent offence.

543. Marking of Anchors.—Anchor manufacturers are to mark all anchors made by them with their names or initials on the crown, and also on the shank under the stock, with the number and weight of the same, or in default they incur a penalty of £5. (*See digest of "Chain Cables and Anchors Acts," hereafter.*)

Salvage.

544. Services rendered in saving life from a British or foreign vessel in British waters, or from a British vessel elsewhere, are to be rewarded by a reasonable sum payable by the owner of the vessel, cargo, or apparel saved, and

when payable by the owner of the vessel in priority to all other salvage claims. In case of deficiency, the Board of Trade may make an award to the salvor out of the Mercantile Marine Fund.

545. When the government of a foreign country is willing that salvage should be awarded by British Courts for salvage of life from ships of that country when outside British jurisdiction, Her Majesty may by Order in Council direct the provisions of this Act with regard thereto, subject to any conditions, to apply as if the salvage was within British jurisdiction.

546. Services rendered in the salvage of cargo or wreck in the United Kingdom, by any person other than a receiver, are to be rewarded by a reasonable amount payable by the owner.

Procedure in Salvage.

547. Salvage disputes, whether relating to life or property, may be determined on the application either of the salvor or owner. If not settled by agreement, arbitration, or otherwise, such disputes shall be determined summarily where the parties consent, or where the value does not exceed £1,000, or where the amount claimed does not exceed £800 in Great Britain or £200 in Ireland, by a County Court having Admiralty jurisdiction in England, by the Sheriff's Court in Scotland, and by arbitration of magistrates in Ireland.

In other cases salvage disputes shall be determined by the High Courts, but if the claimant does not recover more than £800 in Great Britain or £200 in Ireland, he is not entitled to costs and expenses unless the Court certify that the case is a fit one to be tried otherwise than summarily.

548. Salvage disputes, to be determined summarily, in case of wreck shall be referred to a Court or arbitrators having jurisdiction where the wreck is found; and in case of services rendered to vessel, cargo, or apparel, or in saving life therefrom, to the same authorities where the vessel is lying. They may be assisted by a competent person as assessor, whose fee shall not exceed £5.

549. Appeal may be made from a summary decision. In Great Britain, in the same manner as from a County Court or sheriff's Court judgment. In Ireland, to the High Court, but 'only if the sum in dispute exceeds £50, and notice be given to the arbitrators within 10 days of the award, and proceedings be taken within 20 days of the award; the arbitrators must then send a certified copy of the proceedings to the Court, and state the gross value of the property.

550. In Ireland the Lord Lieutenant appoints a rota of arbitrators out of borough or county justices, but where they are not so appointed the salvors and owner may each name a justice as arbitrator, by sending notice to the justices' clerk, failing which the case may be tried at petty sessions. Justices may appoint a fit person as umpire, whose remuneration is not to exceed £5.

The arbitrators and the umpire respectively must deliver their award within 48 hours of the reference of the case to them or him, or either of

them may give written notice that they will extend the time for so doing. Costs may be under a scale determined by a Secretary of State, or at the discretion of the arbitrators or umpire. Full power is given to demand the production of documents, and for examining the parties and witnesses on oath.

551. In a salvage dispute, the receiver may appoint a valuer of the property, the applicant paying a fee, and the receiver shall give copies of the valuation to both parties, and these, if duly signed and certified, are admissible as evidence.

552. Where salvage is due to any person, the receiver may detain the vessel, cargo, or wreck until the salvage is paid, or a process for detention thereof has been issued by some competent Court; but on satisfactory security being given, he may release such detained property.

553. When any such vessel, &c., is detained as aforesaid, and the parties liable to pay the salvage are aware of such detention, then:—(a.) If the amount is not disputed and payment is not made within 20 days after it is due; (b.) Where the amount, though disputed, cannot be appealed against, and the amount is not paid within 20 days; (c.) Where the amount is disputed, but no appeal proceedings have been taken within 20 days: the receiver may forthwith sell such detained property, and pay the salvage and all expenses, and then pay the balance (if any) to the owners.

554. Agreement as to Salvage.—Where any salvage services are rendered, either by the commander or crew of any of Her Majesty's ships or any other ship, and the salvor agrees to abandon his lien on the ship or other property saved, and the master or person in charge enters into a written agreement, attested by two witnesses, to abide the decision of the Courts of Admiralty or English High Court, and thereby giving agreed security, such agreement shall be binding on the owners of the ship, cargo, and freight respectively to the amount of the security. Such agreement may be adjudicated upon and enforced in the same way as a bond executed for salvage by Her Majesty's ships (*see ss. 559 et seq.*). On any such agreement being made, the salvor and master shall make the statements required to be made in the case of the bond, but they need not be on oath. Such statements must be forwarded at once by the salvor to the Court adjudicating.

555. If the aggregate amount of salvage awarded for services rendered in the United Kingdom is not over £200, and there is a dispute as to its apportionment, the person liable may pay it over to the receiver (if he consent), who shall forthwith distribute it in such shares and manner as he thinks fit, and this distribution shall be final and conclusive. The receiver will give the person paying the amount a certificate, which will be a full discharge and indemnity.

556. Where such amount exceeds £200, and in case of *any amount* ascertained outside the United Kingdom, if any delay or dispute arise as to its apportionment, any Court having Admiralty jurisdiction may cause the amount to be distributed among the claimants in such manner as it thinks just.

Salvage by Her Majesty's Ships.

557. No salvage claim is to be allowed in respect of loss, damage, or risk to Her Majesty's ships or property incurred in doing salvage service. Claims for salvage services by naval officers or crew are not to be determined without the consent of the Admiralty.

558. When salvage services are rendered abroad by any of Her Majesty's ships, if it is right that any property should be detained, it is to be taken to some port where there is a consular officer, Colonial Court of Admiralty, or Vice-Admiralty Court, and the salvor shall forthwith deliver a statement on oath to the consular officer or judge, containing the particulars set out in Part I. of Schedule XIX.

559. The bond shall be for an amount fixed by the consular officer or judge, not exceeding one-half of the amount at which he estimates the value of the property saved. If the persons owning the vessel or property are resident out of Her Majesty's dominions, additional security may be demanded. The amount of the bond is to be fixed within 4 days after receipt of the statements.

For the purposes of this section, a consular officer may take affidavits, but neither he nor a judge can require the cargo to be unladen.

560. On execution of the bond in the presence of the consular officer or judge, and delivery thereof to the salvor, and on security being lodged where required, the right to detain the ship or property ceases. The bond binds the owners of the said vessel, cargo, and freight, and their heirs, executors, and administrators for salvage adjudged due against their respective properties.

561. The bond shall be adjudicated on and enforced in the English High Court, unless it is agreed at the time of execution to substitute therefor any specified Colonial Court of Admiralty or Vice-Admiralty Court, who shall have the same powers.

The High Court can enforce any bond given in any such Colonial or Vice-Admiralty Court, and any Court exercising Admiralty jurisdiction in the British Isles shall assist that Court therein. Persons holding security must obey directions of the Court adjudicating with regard to it.

The consular officer or judge must forthwith transmit the statements and documents to the Court which has authority to adjudicate on the bond.

562. The provisions of this Act regarding salvage do not prejudice the right of the commander or crew of any of Her Majesty's ships to enforce claims for services rendered in any other legal way, but the vessel or property cannot then be detained.

563. All bonds, documents, &c., relating to salvage by Her Majesty's ships, made or executed out of the United Kingdom, are exempt from stamp duty.

564. Any person forging or fraudulently altering documents relating to salvage, or using or assisting in the same, or giving false evidence, is liable

to 2 years imprisonment with or without hard labour, or, on summary conviction, to 6 months.

565. Jurisdiction of High Court in Salvage.—Subject to this Act, the High Court, and in Scotland the Court of Session, shall have jurisdiction to decide on all claims whatsoever relating to salvage, whether on the high seas or on the coasts.

Appointment and Fees of Receivers of Wreck.

566. In the United Kingdom the Board of Trade has the general superintendence over matters relating to wreck, and may, with the consent of the Treasury, appoint as receiver of wreck any officer of customs, coast-guard, or inland revenue, or other person.

567. The receiver of wreck shall be paid the expenses properly incurred by him in the performance of his duties, and certain fixed fees (*see* Schedule XX.) which are carried to the Mercantile Marine Fund. Any dispute as to expenses or fees to be summarily decided by the Board of Trade.

568. Services rendered by the coastguard in watching or protecting shipwrecked property, unless declined at the time, are to be remunerated according to a scale fixed by the Board of Trade, the sum to be carried to the Mercantile Marine Fund.

569. Duties on Wreck.—All foreign wreck is subject to the same duties as on importation of similar goods. Goods saved from a ship wrecked or stranded when homeward bound may be forwarded to their destination, and if on her outward voyage to the port of shipment.

Supplemental.

570. In Scotland, the county sheriff has similar powers with regard to salvage as a justice of the peace or Court of summary jurisdiction.

571. The powers of the Lord Warden and officers of the *Cinque Ports* in regard to salvage are not affected by this Act.

PART X.—PILOTAGE.

Part X. of this Act, embracing Sections 572—633, deals with all matters relating to pilotage authorities, and the licensing and discipline of pilots, with regulations relating to compulsory pilotage, &c.

Preliminary.

572. Part X. extends to the United Kingdom and the Isle of Man only, but applies to all ships British and foreign.

573. Defines the expression "*pilotage authority*."

574. The pilotage authorities existing before the Merchant Shipping Act, 1894, retain all their powers so far as consistent with the provisions of this Act.

Powers of Board of Trade.

575. The Board of Trade may by provisional order constitute new pilotage authorities and districts, or extend the same, in any area where there is no pilotage authority.

576. The Board may transfer pilotage jurisdiction, and make all arrangements consequent thereupon.

577. The Board may make provision for the direct representation of pilots and shipowners upon pilotage authorities.

578. The Board may grant exemption from compulsory pilotage to masters and owners.

579. The Board, where pilotage is not compulsory, may give any pilotage authority power to license pilots, to fix or increase rates, and to facilitate their recovery, and the grant of licenses to duly qualified persons.

580. *Provisional Orders* (required by ss. 575 to 579) may be made by the Board on the written application of an interested person, but notice of the application must be previously advertised. The Board must also refer the same to the pilotage authority affected, and allow at least 6 weeks for any objections to be made. The Board will then proceed or not, as they see fit, but any provisional order made must receive the sanction of Parliament.

Byelaws of Pilotage Authorities.

581. Every pilotage authority may by byelaw exempt masters from compulsory pilotage, upon such terms and conditions as the authority may consider desirable.

582. Powers are given to pilotage authorities to make byelaws dealing with pilots, their licenses, boats, and crews, their rates and remuneration; also to make arrangements with any other pilotage authority for altering or extending limits of pilotage districts, their powers and privileges; to establish superannuation funds for the relief of pilots and their families, and to require

masters and mates who hold pilotage certificates to subscribe thereto, and make periodical returns of pilotage services rendered; and to grant special licenses for pilots acting beyond the limits of their districts.

583. A byelaw must previously be published as the Board of Trade may direct, and must be confirmed by Order in Council.

584. A majority of qualified pilots at any port, or the Local Marine Board, or where there is no Board not less than 6 persons, being masters, owners, or mariners, may appeal to the Board of Trade against any byelaws or regulations, not made under this Act, and the Board will act as they may deem just and expedient, and their decision is final.

Returns by Pilotage Authorities.

585. Every pilotage authority must make periodical returns, as required, to the Board of Trade, detailing all byelaws and regulations; names and ages of pilots and apprentices, and their service; pilotage rates; amounts received for pilotage; total receipts and expenditure; and particulars of pension and superannuation funds. The Board of Trade has power to inspect any relevant books or documents, and must lay the returns forthwith before Parliament.

If any pilotage authority (other than the Trinity House), fail to make such returns, or to comply with this section, Her Majesty may by Order in Council suspend its powers, and its jurisdiction shall thereupon be transferred to the Trinity House during such suspension.

Licensing of Pilots.

586. A pilot is deemed to be duly qualified when licensed by a pilotage authority, and his license must be at once registered by the nearest chief officer of customs.

587. Every qualified pilot must be furnished with a copy of Part X. of this Act, and with a copy of the rates, byelaws, and regulations, which must be produced on demand of his employer, under a penalty of £5.

588. He must also produce his license on similar demand, under a penalty of £10 and liability to suspension or dismissal.

589. He must produce or deliver up the license on request of the pilotage authority; and at death such license is to be at once forwarded to the authority. In default there is a penalty of £10.

590. Fraudulent use of a license by an unqualified pilot entails a penalty of £50.

Recovery of Pilotage Dues, and other Rights of Pilots.

591. The owner or master of a ship, or such consignees or agents as act for the ship, are liable for the pilotage dues, and may be summarily proceeded against after written notice to pay has been served, and such sum paid by any consignee or agent may with all reasonable expenses be retained by him out of owners' moneys in his hands.

592. No other than the authorised pilotage rates are to be paid, demanded, or received, under a penalty of £10 (*see s. 626*).

593. A qualified pilot leading a ship, but not able to board her, is entitled to pilotage dues.

594. No pilot, without his consent, shall be taken out of his district, and if so taken (or unavoidably), he shall be allowed 10s. 6d. a day until his return, and reasonable travelling expenses home.

595. The master is bound to tell the pilot the true draught of the ship, under a penalty of double the amount of pilotage dues payable. If the master or any interested person makes or allows any fraudulent alteration of the figures on the stem or stern-post, he is liable to a penalty of £500.

596. An unqualified pilot may take charge of a ship if no qualified pilot offer himself, if a ship is in distress, or to change the moorings of a ship in port, or take her into and out of dock, if he can do so without infringing port regulations, &c.

597. A qualified pilot may supersede an unqualified pilot, and the fees are to be divided by the master; any dispute thereon is to be settled by the pilotage authority.

598. If an unqualified pilot, whether within or outside a compulsory pilotage district, assumes or continues in charge after a qualified pilot has offered his services, he is liable to a penalty of £50. If the master allows such an act, he is liable to a penalty of double the pilotage dues.

Pilotage Certificates for Masters and Mates.

599. A pilotage authority may, if they think fit, examine masters and mates as to their capacity to pilot their ships, or others belonging to the same owner, within the district. If competent, they shall grant the applicant a certificate, specifying his name, ship or ships, limits of district, and date, entitling him to pilot his ship within those limits. The certificate must be renewed annually.

600. If, without reasonable cause, such authority refuse to examine, or to grant a certificate, or in case of examination or conditions being unfair or improper, or the certificate being improperly withdrawn, the Board of Trade may make arrangements for examining, and granting a pilotage certificate, which must be renewed annually by the authority or the Board of Trade.

601. A pilotage authority has power to withdraw a certificate on proof of the holder being incompetent or guilty of misconduct.

602. Certain fees payable for pilotage certificates granted and renewed, are to be applied to the expenses connected with the examinations, any surplus to go to the superannuation fund, or otherwise, as the authority may think fit.

Compulsory Pilotage.

603. This Act does not affect the powers of pilotage authorities in regard to compulsory pilotage. If, in such district, the master of an unexempted

ship, after a duly qualified pilot has offered his services, pilots his ship himself without holding the necessary certificate, he incurs a penalty of double pilotage dues (*see s. 622*).

604. A home-trade passenger ship *must* carry a qualified pilot (under a penalty of £100 on the master), unless the master or mate is qualified to act as pilot; the Board of Trade grant certificates of qualification if satisfied of the master or mate's experience or competency to act as pilot for such district. Certain fees are payable on examination, and on renewal of certificate.

605. Ships passing through any pilotage district in the United Kingdom on their voyages between two places, both situate out of such districts, are exempt from any obligation to employ pilots, unless they load or discharge in such district, or at any place lying on some river or its tributaries which passes through such district.

Offences, Suspension, and Dismissal of Pilots.

606. If a qualified pilot keeps, or has any interest in, a public-house, or sells wine, spirituous liquors, tobacco, or tea, or offends against the revenue laws, or is guilty of corrupt practices relating to ships, &c., or lends his license, or acts whilst suspended or intoxicated, or improperly increases the expense of pilotage, or refuses or wilfully delays to pilot any ship, or unnecessarily cuts or slips any cable, or refuses to conduct the ship into port without reasonable excuse, or quits the ship without leave before the completion of service, he is liable to suspension or dismissal and a penalty of £100, in addition to any liability for damages. Any person aiding or abetting is also liable to a penalty of £100, in addition to any liability for damages.

607. Any pilot in charge, by whose wilful breach or neglect of duty the ship or life or limb is endangered, is guilty of a misdemeanour, and is liable to suspension or dismissal.

608. Any person who by wilful misrepresentation endeavours to obtain charge of any ship, and any person aiding in the same, in addition to any liability for damages is liable to a penalty of £100.

609. Where pilots are directly represented on a pilotage committee, such committee has power to suspend or dismiss its licensed pilots when guilty of an offence.

610. A pilot has the right of appeal from the decision of a pilotage authority, as to his suspension, dismissal, or fine above £2, or his interests in the pilotage fund, either to the local County Court judge or a local metropolitan magistrate (in Scotland the sheriff), who will be assisted by an assessor, selected by the judge, but objection may be taken to such assessor by either party. The Court may finally decide the case as may seem just.

Pilot Boats, and Pilot Signals.

611. Pilot boats are to be licensed by the pilotage authority of the district, who may also appoint and remove the masters thereof.

612. Such boats shall be painted black, or as the authority, with consent of the Board of Trade, directs. On the stern, the name of the owner and her port, and on each bow the licensed number, all in white letters at least 1 inch wide and 8 inches long. She shall, when afloat, carry conspicuously a large pilot flag, the upper horizontal half white, and the lower half red. The master is liable to a penalty of £20 in default.

613. When a qualified pilot is carried off in a vessel not a pilot boat, he must exhibit a pilot flag under a penalty of £50. If the master or mate of a ship holds a pilotage certificate, the pilot flag must be displayed while navigating in such district, under a penalty of £20.

614. If such pilot flag, or one closely resembling it, be displayed by a vessel having no pilot on board, the owner or master is liable to a penalty of £50.

615. Her Majesty may by Order in Council make rules as to signals for pilots, and a master using or permitting such to be used for any other purpose than summoning a pilot incurs a penalty of £20.

Trinity House.

616. A general power is given to the Trinity House to alter certain of the provisions applicable to it.

617. *Sub-Commissioners.*—The Trinity House has power to appoint from 3 to 5 sub-commissioners to examine pilots and grant licenses in the districts under its charge, and may also, with the consent of Her Majesty in Council, appoint sub-commissioners for any other district not already provided for. Such sub-commissioners are not deemed to be pilotage authorities under this Act.

618. *Licensing of Pilots.*—The districts for which the Trinity House has power to license pilots are (1) The London District, between London Bridge and Rochester Bridge, to Orfordness on the North, and Dungeness on the South. (2) The English Channel District, the seas between Dungeness and the Isle of Wight. (3) The Trinity House Outport Districts, comprising any pilotage district for which there is no other authority or provision.

No pilot can be licensed to conduct ships both above and below Gravesend.

619. The Trinity House (subject to any alteration to be made by it) must exhibit at their house in London the names and abodes of its licensed pilots, and send a copy of such notice to the Commissioners of Customs, and to the chief officers of customs within the district, there to be posted up.

Every Trinity House pilot must execute a bond of £100, free from stamp duty, for his due observance of the regulations and byelaws. The license must be renewed every year, on or before January 31st.

620. The pilot's liability for neglect or want of skill is limited to the amount of his bond and the amount then payable to him for the voyage in question.

621. The Trinity House has power to revoke or suspend any of their pilots' licenses.

Compulsory Pilotage (Trinity House).

622. Subject to any alterations by the Trinity House, and exemptions, it is compulsory to employ a qualified pilot in the London and Outport districts of the Trinity House, if such pilot offer his services. If, after such offer, the master pilots his ship without possessing a pilotage certificate, or employs an unqualified pilot, he is liable, in addition to any other penalty (s. 603) to a fine of £5 for every 50 tons burden of his ship.

623. Subject to alteration, the Trinity House is to make provision for a constant supply of qualified pilots at Dungeness.

624. Subject to alteration, a vessel coming from the West bound to the Thames or Medway, must display the pilot signal on arrival off Dungeness and keep it displayed until a qualified pilot has come on board. The master must take the first qualified pilot who offers, and if he fail to signal for a pilot, or to give every facility for his boarding, he incurs a penalty of double pilotage dues.

625. The following ships, when not carrying passengers, shall be *exempted from compulsory pilotage* in the London and Outport districts:—(1) Ships employed in the coasting trade of the United Kingdom. (2) Ships of not more than 60 tons burden. (3) Ships trading between any port in such districts and the port of Brest, or any port in Europe North and East of Brest, or the Channel Islands, and Isle of Man. (4) Ships navigating within the limits of the port to which they belong.

Rates of Pilotage (Trinity House).

626. Certain prescribed rates of pilotage are fixed by the Trinity House for their districts, but these rates may be altered by them, and they are authorised to demand or receive any less rate (*see s. 592*).

627. Foreign vessels trading to and from London must pay to the chief officer of customs pilotage dues inwards for the distance piloted, and outwards for the full distance, through their masters, consignees, or agents.

628. A certificate of payment is given for clearance. The officer of customs pays over such dues to the Trinity House, which settles with the pilots and persons entitled to remuneration.

629. In case of dispute as to the draught of water of any ship trading to London, she is to be measured before discharge, or before quitting her moorings, by a person appointed by the Trinity House, and the dispute settled; and the party against whom he decides shall pay a fee of £1 1s. if the ship be below, and 10s. 6d. if the ship be above the entrance of the London Docks at Wapping.

Pilot Fund (Trinity House).

630. Subject to alterations, this fund is provided for by charging a poundage of 6*d.* in the £ on all Trinity House pilots' earnings, and a yearly sum of £8 8*s.* on every person licensed by the Trinity House to act as pilot in a district not under sub-commissioners. If a false return be made of the earnings, or default be made in payment, the pilot is liable to a penalty of double such amount, and to suspension or dismissal.

631. This Fund is chargeable with the expenses of all pilotage duties, and then is used for a superannuation fund, and the relief of pilots' widows and children.

Hull and Newcastle Trinity Houses.

632. These Corporations have power to appoint sub-commissioners for examining pilots in their districts (as in s. 617).

Saving for Liability of Owners and Masters.

633. An owner or master of a ship shall not be answerable to any person whatever, for any loss or damage occasioned by the fault or incapacity of any qualified pilot acting in charge of that ship, within any district where the employment of such pilot is compulsory by law.

PART XI.—LIGHTHOUSES.

Part XI. of this Act, embracing Sections 634 to 675, deals with the establishment and maintenance of Lights and Coast Fog Signals, Buoys, and Beacons, and the collection of dues from vessels passing, or deriving any benefit therefrom.

General Management.

634. Subject to the legal powers or rights of any "local authorities," the superintendence and management of lighthouses, buoys, and beacons are vested as follows:—

- (a) In England and Wales and the Channel Islands, and the adjacent seas and islands, and at Gibraltar, in the Trinity House.
- (b) In Scotland and the adjacent seas and islands, and the Isle of Man, in the Commissioners of Northern Lighthouses.
- (c) In Ireland and the adjacent seas and islands, in the Commissioners of Irish Lights.

These bodies are referred to as the "general lighthouse authorities," and those areas as "lighthouse areas."

635. These authorities must give such returns or information as the Board of Trade may require.

636. The Board of Trade, on complaint made regarding any lighthouse, buoy, or beacon under the management of such authority, may appoint any persons to inspect the same, who must be furnished with any information and explanations they may require in regard thereto.

637. The Trinity House, their engineers, and servants may at all times enter and inspect Scotch and Irish lighthouses.

Construction of Lighthouses, &c.

638. General lighthouse authorities have within their respective areas lighthouse powers enabling them to erect, alter, or remove any lighthouse, buoy, or beacon, and to vary the character of any lighthouse or lights therein.

639. The Lands Clauses Acts shall apply in the case of all lighthouses to be constructed and land to be purchased for the above purposes. The authority may also sell any of their land.

640. Before any of their lighthouse powers are exercised by the Commissioners of Northern Lighthouses or of Irish Lights, they must submit a scheme for the approval of the Trinity House. The latter must then send a copy of the scheme and of their report thereon to the Board of Trade, who will sanction the scheme, or not, as they may think fit.

641. The Trinity House, with the sanction of the Board of Trade, can compel the execution of such works by such Commissioners.

642. An additional light, or a fog signal, added to an existing lighthouse, may be treated as if it were a separate lighthouse.

Light Dues.

643. Light dues as in force at the commencement of this Act may continue to be levied by the general lighthouse authorities in respect of the lighthouses, buoys, and beacons within their jurisdiction on all ships save Her Majesty's, and those exempted under this Act.

644. The dues for new lighthouses, &c., may be fixed by Her Majesty by Order in Council.

645. Her Majesty may, by Order in Council, increase, vary, or reduce such light dues.*

646. A general lighthouse authority may, with the consent of Her Majesty, by Order in Council, exempt any ships from payment of light dues, alter the

* By an Order in Council, of May 16th, 1898, it is enacted that steamers putting into any port in the United Kingdom for bunker coals are exempt from light dues, and may also take on board provisions and stores for consumption or use on board, provided they do not call for orders, break bulk, or take on board mails, cargo, or passengers.

time, place, and mode of payment, and substitute an annual payment therefor, or otherwise. The Shipping Dues Exemption Act, 1887, remains in force.*

647. Tables of all light dues and their accompanying regulations are to be furnished to all the custom houses in the United Kingdom, there to be posted up.

648. The general lighthouse authorities appoint persons to collect light dues at the ports, and the latter will pay them over as such authorities may direct. The authorities must remit such dues to the Paymaster-General to be carried to the Mercantile Marine Fund.

649. The owner or master of any ship, or such consignees or agents thereof as have made themselves liable for the other charges payable by the ship in the port of arrival or discharge, are liable also for the light dues, and they may be recovered as penalties; and such consignee or agent may retain the amount of such light dues and expenses paid by him, out of any of the ship's or owner's moneys in his hands.

650. On the non-payment of light dues for any ship, the authorised collector has additional power to distrain on the goods, tackle, or anything on board such ship; and, after three days, to sell such distress and satisfy the amount due, with expenses, and pay the balance, if any, to the owner or master.

651. A receipt for light dues is given to every person paying the same, and such receipt must be produced on clearance of the ship.

Local Lighthouses.

652. The general lighthouse authorities must inspect local lighthouses, buoys, and beacons, and obtain full information about them, and make a report thereon to the local authorities and the Board of Trade, such reports to be laid before Parliament.

653. The general lighthouse authorities, with the sanction of the Board of Trade, may direct or sanction the establishment, removal, or variation of lighthouses, &c., under the control of a local lighthouse authority, and in default of compliance, their lighthouses, buoys, and beacons, and all powers in relation thereto, may, by Order in Council, be transferred to the general lighthouse authority in whose district they are. This section does not apply to temporary buoys or beacons.

654. Local lighthouses, &c., may, with the sanction of the Board of Trade, be surrendered or sold to the general lighthouse authority in whose district they are situate, any purchase money being paid out of the Mercantile Marine Fund.

* This Act forbids the exemption from, or levying of, differential rates in the United Kingdom, in favour of ships of any particular country, port, or place, or belonging to any particular owner or firm; or on goods produced, or destined for sale or use, in any particular place or manufactory.

655. *Light Dues* for local lights, &c., may be fixed, reduced, altered, or increased by Her Majesty, by Order in Council, on application of the local lighthouse authority; such dues to be paid by the same persons, and recoverable as in s. 649.

656. Local light dues are to be applied only for the construction, placing, maintenance, and improvement of the local lighthouses, buoys, and beacons; and a copy of the accounts must periodically be sent to the Board of Trade.

657. A local lighthouse authority may reduce their dues.

Expenses of General Lighthouse Authorities.

658. Expenses incurred by the general lighthouse authorities in the performance of their duties are to be paid out of the Mercantile Marine Fund.

659. Her Majesty may, by Order in Council, fix the establishments to be maintained by the general lighthouse authorities, and the sums to be paid therefor. Any increase must have the consent of the Board of Trade.

660. Estimates, or accounts of other expenses, must be submitted to the Board for their approval.

661. The Treasury may, upon application of the Board of Trade, grant loans to an extent not exceeding £200,000 to the Mercantile Marine Fund, for the construction and repair of lighthouses, and other extraordinary expenditure connected with lighthouses, buoys, and beacons.

662. The Board of Trade may mortgage that Fund, and any dues, &c., payable thereto, for the same purposes as in s. 661.

663. Similar advances on mortgage may also be made, for such purposes, by the Public Works Loan Commissioners.

664. General lighthouse authorities must render to the Board of Trade periodical statements of their income and expenditure, with any explanations, &c., required, and permit their account books to be inspected by persons appointed by the Board.

665. General lighthouse authorities may, with the sanction of the Board of Trade, grant superannuation allowances or compensation, to persons whose salaries are paid out of the Mercantile Marine Fund.

Offences in connection with Lighthouses, &c.

666. Any person, who injures, removes, alters, or destroys any lighthouse, lights, lightship, buoy, or beacon, rides by, makes fast to, or runs foul of any lightship, buoy, or beacon, incurs a penalty of £50, and must make good any damage.

667. False Lights.—If any fire or light is burned which may be mistaken for a lighthouse light, the general lighthouse authority of the district may give notice to have it extinguished or screened; and if the person concerned does not abate it, he shall be deemed guilty of a common nuisance, and proceeded against therefor, and incur a penalty of £100; and, in addition, the general authority may themselves abate such nuisance, and recover their expenses in so doing.

Commissioners of Northern Lighthouses.

668. Consist of the Lord Advocate and the Solicitor General for Scotland; the lords provosts of Edinburgh, Glasgow, and Aberdeen, and the provosts of Inverness and Campbelltown; the eldest bailies of Edinburgh and Glasgow; and the sheriffs of the maritime counties. They may elect the provost or chief magistrate of any maritime Scotch borough, and the sheriff of any county abutting on the Scotch coast. Five members constitute a quorum.

Provision as to Channel Islands.

669. The Trinity House cannot exercise its powers in reference to lighthouses, &c., in the Channel Islands, without the consent of Her Majesty in Council, except with regard to false lights and surrender or purchase. And no light dues are to be levied without the consent of the Island States.

Lighthouses, &c., in Colonies.

670. The Colonial legislature assenting, Her Majesty may, by Order in Council, fix, increase, diminish, or repeal light dues payable in respect of lighthouses, buoys, and beacons in such colony.

671. Colonial light dues are to be collected and recoverable as in ss. 648 and 649, or by persons appointed by the Governor in a British possession.

672. Such dues are to be paid over to the Paymaster-General, to be dealt with as the Board of Trade may direct.

673. Such dues, after payment of collection expenses, can only be applied for constructing or repairing such lighthouses, &c., for which they were levied.

674. The Board of Trade may raise, as in ss. 661 to 668, sums for constructing or repairing Colonial lighthouses, &c.

675. Accounts must also be kept of Colonial light dues, to be laid annually before Parliament, and audited.

PART XII.—MERCANTILE MARINE FUND.

676. This Fund is formed of the various moneys, fees, and dues payable under the Merchant Shipping Act, and of costs and expenses paid to the Board of Trade in connection with the Boiler Explosions Acts, 1882 and 1890, and of any sums directed to be paid to such Fund under any other Act.

Under this Act are comprised all fees, &c., for the survey and measurement of ships; all sums (other than fines and forfeitures) received by the Board of Trade under Parts II. and V.; unclaimed property of deceased seamen; all fees, &c., for services performed under Part III.; engagement and discharge fees of fishermen; unclaimed wreck; fees to receivers of wreck; and all light dues under Part XI.

677. Subject to any legal prior charges, the Mercantile Marine Fund provides the salaries, pensions, and allowances to officers and others engaged in carrying out the provisions of this Act, and expenses connected therewith. Also pensions, &c., in respect of lastage and ballastage in the Thames; the establishment and maintenance of lifeboats, &c., and granting rewards for preservation of life from wrecks; advertising alterations in foreign light-houses, &c.; costs and expenses incurred under the Boiler Explosions Acts; and any other expenses legally chargeable under this or any other Act.

678. Parliament grants an annual subsidy to the Fund, as determined by the Treasury, with the concurrence of the Board of Trade.

679. The accounts of the Fund are deemed to be public accounts, and shall be examined and audited accordingly. The Board of Trade must lay them before Parliament annually.

PART XIII.—LEGAL PROCEEDINGS.

Part XIII. of the Act, embracing Sections 680 to 712, deals with the procedure taken in legal proceedings under this Act, the jurisdiction of the Courts at home and abroad, the application of penalties and costs, &c.

Prosecution of Offences.

680. Subject to any special provisions, and to ss. 702 to 710 in respect of Scotland, an offence declared to be a *misdeemeanour* is punishable by fine, or by imprisonment for 2 years; but may, instead, be prosecuted summarily under the Summary Jurisdiction Acts, when the penalty is imprisonment for 6 months, or a fine of £100. In both cases the imprisonment is with or without hard labour. Any offence punishable as in the latter case must be prosecuted summarily. Offences against byelaws made under this Act are prosecuted in the same way.

681. Defines the application of the Summary Jurisdiction Acts in cases before a Court of summary jurisdiction, or before one justice of the peace. Fines recoverable before such Court are considered as a civil debt.

682. *Appeal on Summary Conviction.*—If the fine is over £5, there is an appeal to the quarter sessions.

683. *Limitation of Time for Summary Proceedings.*—All proceedings to obtain a summary conviction under this Act must be commenced within six months from the date of the offence, or if either party be absent from the United Kingdom, within two months after the return of both to the United Kingdom. Similarly, no order for payment of money in a summary way in the United Kingdom can be made, unless the proceedings be taken within six months from the date of the cause of complaint; or if either party be absent from the United Kingdom, then within six months of the return of both to the United Kingdom.

There are similar provisions regarding summary proceedings in any British possession.

This section does not apply to proceedings under the Public Authorities Protection Act, 1898.

Jurisdiction.

684. Every offence is deemed to have been committed where it actually occurred, or where the offender may be.

685. Magistrates of districts adjacent have jurisdiction over any vessel lying off, or passing such coasts, and over all persons thereon.

686. If any person has committed any offence on board any British ship, either on the high seas or in any foreign port or harbour, or on board any foreign ship to which he does not belong, and is afterwards found within the limits of any British Court having jurisdiction in such matters, he may be tried by such Court as though the offence were committed within the jurisdiction of such Court.

The Admiralty Offences (Colonial) Act, 1849, is not affected by this section.

687. All offences committed by British masters, seamen, or apprentices, at any place out of Her Majesty's dominions, whether when ashore or afloat, are to be proceeded against as though committed within the jurisdiction of the Admiralty of England (*see s. 689*).

Damage Occasioned by Foreign Ship.

688. If any foreign ship, which has caused any damage to British property, is found within the limits of the United Kingdom, the judge of any Court of Record (in Scotland the Court of Session and county sheriff) may issue an order, on the summary application of any person showing due cause, directing any named officer to detain the ship, until satisfaction has been made in respect of the injury complained of, or approved security has been given to abide the result of any legal proceedings taken with regard thereto.

In case such foreign ship will have departed outside such limits, before an application can be made, she may be detained to await the result of such application, and the detaining officer (*see* s. 692) will not be liable for any costs or damages, unless the detention prove to have been unreasonable.

The person giving security will be made the defendant (or owner) in any legal proceedings.

Provisions in case of Offences Abroad, &c.

689. On complaint being made to any British consular officer regarding offences as in s. 687, he may inquire into the case and place the offender under restraint, and send him in any British ship to the United Kingdom or to some British possession having a Court competent to deal with the matter; and the master of any British vessel so bound may be required to convey and maintain such offender and witnesses, and deliver the offender into custody on arrival, he being afterwards repaid for so doing. The master cannot be required to receive more than one offender for every 100 tons of his ship's register, nor more than one witness for every 50 tons.

If any master refuse, or make default, he is liable to a penalty of £50.

690. *Inquiry into Cause of Death.*—If any death occurs during the voyage of any foreign-going British ship, the superintendent at the port where the crew is discharged shall inquire into the circumstances, and endorse the official log accordingly. If it appear that the said death was caused by violence, the superintendent shall report to the Board of Trade, or take immediate steps to have the matter judicially inquired into.

691. *Depositions,* previously duly made on oath before a judge, magistrate, or consular officer, and certified by their signature, are to be received as evidence in any legal proceedings, where the witness cannot be found within the jurisdiction of the Court. But in criminal proceedings depositions are not admissible unless made in the presence of the accused,

This section does not affect the provisions as to depositions in any other Act or ordinance.

Detention of Ship, and Distress on Ship.

692. Any ship liable to detention under this Act may be detained by any full pay commissioned officer in either service, any officer of the Board of Trade or of Customs, or any British consular officer. If the ship proceed to sea before being legally released, the master, and the owner and any person sending the ship to sea, if privy to the offence, are liable to a penalty of £100; and if the detaining officer, or any surveyor or officer of the Board of Trade or of Customs be so taken to sea, the owner and master are liable to pay all expenses incidental thereto, and a penalty of £100, or, if not prosecuted summarily, a sum not exceeding £10 for every day until such person returns to his port.

Detained ships to be refused clearance or transire by customs officers.

693. Wages, fines, or other sums legally ordered to be paid by the master or owner, and not so paid, are leviable by distress, or pouncing and sale of the ship, her tackle, furniture, and apparel.

Evidence, Service of Documents, and Declarations.

694. Any document required to be executed in the presence of, or to be attested by, one or more witnesses, may be proved by the evidence of any person able to testify to the facts, without the necessity of calling the attesting witness or witnesses.

695. Documents declared by this Act to be admissible in evidence are to be so received. A duly signed and certified copy of, or extract from, any such document is to be furnished by the officer holding the original to any applicant upon payment of not more than 4*d.* per folio of 90 words.

Certified copies of ships' registers with a statement of ownership, also of any declaration or document, a copy of which is made evidence by this Act, are to be furnished for 1*s.* each copy. Any officer wilfully supplying a false copy or extract is guilty of a misdemeanour, and is liable to imprisonment for 18 months.

Any person forging seal, stamp, or signature on such documents, or knowingly tendering the same, is guilty of a felony, and liable to penal servitude for 7 years, or to imprisonment for 2 years with or without hard labour, and the document may be impounded.

696. *Service* of documents, such as summonses, &c., may be personally served on the person to be served, or left at his last place of abode; or they may be left with the person in command or charge of the ship to which such person to be served belongs; or if no master, managing owner, or agent can be found, then by affixing a copy of the document to the ship's mast.

Obstruction of service of documents relating to detention as unseaworthy entails a penalty of £10, and the owner or master, if privy thereto, is guilty of a misdemeanour.

697. Any exception, exemption, proviso, excuse, or qualification in regard to an offence, whether appearing in the same section of this Act or not, may be proved by the defendant.

698. *Declarations* required to be made before a justice of the peace or any particular officer, may also be made before a commissioner for oaths.

Application of Penalties, and Costs of Prosecutions.

699. Where not otherwise provided, the Court may apply any penalty imposed by it, towards the compensation of any person wronged by the act or default complained of, or for the expenses of the proceedings; but if not so applied, penalties are in the United Kingdom paid into the Treasury to the Consolidated Fund, and in the Colonies into the Colonial Treasury.

700. In England the costs and expenses of a prosecution for misdemeanour may be on the same scale as for a felony; elsewhere, as upon the trial of any misdemeanour.

701. Payment of costs of prosecution for felony, or misdemeanour, committed within the jurisdiction of the Admiralty of England, legally payable out of the rates, shall be made as if such offence had been committed in the county where the case is heard, to be repaid out of money provided by Parliament.

Procedure in Scotland.

702. In Scotland a *felony* or *misdemeanour* may be prosecuted by indictment, or criminal letters, before the High Court, or by criminal libel before the sheriff, and the punishment, and order as to costs, &c., may be as the Court shall think fit.

703. *Summary proceedings* for other causes may be brought before the county sheriff, or before two justices of the peace, and an order for costs, &c., may be made on the defender.

704. In summary proceedings for money, the complaint may contain a prayer for warrant to arrest upon the dependence.

705. Where apprehension without warrant is authorised by this Act, such person may be detained in custody till brought before the Court.

706. In executing arrestment against goods or effects not within the jurisdiction of the issues of the warrant, such warrant must be endorsed by the sheriff clerk, or clerk of the peace, of the county or burgh where such goods are.

707. A decree for payment against a defender in summary proceedings shall contain warrant for arrestment, poinding, and imprisonment in default of payment.

708. If a duly cited defender in summary proceedings for money fail to appear, the Court shall pronounce against him with costs, &c. But there is a right of demanding a rehearing by lodging the amount with the clerk.

709. No order, decree, or sentence is to be quashed for any informality, &c., and is to be final, except on the ground of corruption, or malice on the part of the Court, when complaint must be made within 14 days.

710. This Act does not affect the common law of Scotland, with regard to proceedings instituted by the Lord Advocate; nor the rights of owners or creditors to enforce a judicial sale of ship and tackle; nor does it give any fresh powers to the English High Court in respect of salvage in Scotland.

Prosecution of Offences in Colonies.

711. Any offence under this Act shall, in any British possession, be punishable by any Court or magistrate by whom an offence of a like character is ordinarily punishable, or according to the law of such Colony.

712. Part XIII. applies to the whole of Her Majesty's dominions, except where otherwise provided.

PART XIV.—SUPPLEMENTAL.

Part XIV., embracing Sections 718 to 748, forms the concluding Part of the Act, and deals with various matters not included in the previous Parts.

General Control of the Board of Trade.

713. The Board of Trade has the general superintendence of all matters relating to merchant shipping and seamen, and is to carry into execution all Acts of Parliament affecting them, except where otherwise provided.

714. Consular and customs officers abroad are to furnish the Board with such returns and reports relating to shipping and seamen as may be required.

715. Superintendents must produce to the Board all required official log books and other documents.

716. All fees and other sums (except fines) received by the Board under Parts II., IV., and V., are to go to the Mercantile Marine Fund. All fines reaching the Board are to go to the Consolidated Fund.

717. The Board may take legal proceedings in the name of any of their officers.

Expenses of Commissioners of Customs.

718. Expenses incurred by the Commissioners of Customs in carrying out the provisions of this Act, shall be paid out of the Customs Revenues; but the Board of Trade may, with the consent of the Treasury, repay part or all of such expenses out of the Mercantile Marine Fund.

Documents, and Forms.

719. Documents issued by the Board of Trade, and bearing their seal, or signed by their secretaries, or, if a certificate, by one of the officers of the Marine Department, are admissible in evidence.

720. The Board of Trade may prepare and sanction forms required by the Act, except those under Part I.; they must be marked with their seal or some other mark, and any fresh issue or alteration must be previously advertised. Such forms are to be supplied gratis, or for a small charge, to all custom houses and mercantile marine offices in the United Kingdom, or the Board may license persons to print and sell them. If such forms are not available, the required book, instrument, or paper, must be as near the form as possible, or it will not be admissible in evidence.

721. Instruments for carrying into effect Part I., and those used by the Board of Trade under Parts II., V., XI., and XII., and those required to be in a form approved by the Board, are exempt from stamp duty.

722. Persons forging the seal or mark of the Board on any such form, or fraudulently altering the form, are guilty of a misdemeanour.

Persons using improper forms under Part II., or knowingly printing, selling, or using any improper form, are liable to a penalty of £10.

Powers for enforcing Compliance with Act.

723. If any Board of Trade officer, Naval full pay commissioned officer, consular officer, the Registrar-General or his assistant, chief officer of customs, or superintendent, suspects non-compliance with the Act, he can require the owner, master, or crew, to produce any official log books, other documents, and list of persons on board, and may take copies of them; he may muster the crew, and may summon the master to appear and give any explanation concerning the ship, crew, documents, &c. Refusal to comply with this section, or knowingly misleading or deceiving any such officer, entails a penalty of £20.

Surveyors of Ships.

724. The Board of Trade may appoint any person they think fit as a surveyor, either as a shipwright surveyor, or engineer surveyor, or as both; also a surveyor general. It may remove any surveyors, fix and alter their remuneration, make regulations as to their duties, travelling and other expenses, &c. If a surveyor receive any unauthorized fee or gratuity he is liable to a penalty of £50.

725. A surveyor may board any steamship at all reasonable times, and inspect the same, the machinery, boats, &c., the officers' certificates, and if he consider fit may require the ship to go into dock for survey of the hull. Any person hindering him is liable to a penalty of £5.

726. Surveyors are to make required returns to the Board of Trade of the build, dimensions, draught, burden, rate of sailing, fuel space, machinery, and equipments of ships they survey, and any owner, master, or engineer refusing to give such information or required assistance is liable to a penalty of £5.

727. In British possessions, such surveyors are appointed by the governor.

Board of Trade Inspectors.

728. The Board may appoint any person as an inspector, to report upon the nature and causes of any accident or damage sustained or caused by any ship; whether the provisions and regulations of this Act have been complied with; and whether the hull and machinery of any steamship are sufficient and in good condition.

729. An inspector may board any ship, and inspect the same, the machinery, boats, equipments, &c.; may inspect any premises he may deem requisite; may require such persons as he thinks fit to appear and answer inquiries; may enforce the production of relevant books, papers, or documents; and may administer oaths, or require a declaration in lieu thereof.

Witnesses summoned under this section are to be allowed their expenses as if on a subpoena. Any person refusing to attend as a witness, or to carry out the above requirements, is liable to a penalty of £10.

730. Any person wilfully impeding an inspector is liable to a penalty of £10, and may be seized and detained for trial.

Exemption from Rates and Harbour Dues.

731. Lighthouses, buoys, and beacons, all light dues, and other rates, fees, and payments going to the Mercantile Marine Fund, and all premises or property occupied by the general lighthouse authorities or the Board of Trade, and used for those services, and all relevant instruments or writings, are exempt from all public, parochial, and local taxes, duties, and rates.

732. All vessels owned or used by the general lighthouse authorities or Board of Trade are exempt from harbour, dock, or pier dues, and rates of any kind.

Private Signals.

733. Any shipowner desirous of using signals for a private code may register such code with the Board of Trade, if they do not conflict with the signals authorised for distress or pilots (*see* ss. 484 and 615).

Application of Act to Foreign Ships by Order in Council.

734. If the government of any foreign country wish any of the provisions of this Act to apply to ships of that country, Her Majesty may, by Order in Council, order that such provisions shall so apply, as if those ships were British ships.

Powers of Colonial Legislature.

735. The legislature of any British possession may repeal the provisions relating to merchant shipping registered in the respective Colonies, upon approval of Her Majesty in Council, with the exception of those of Part III. relating to emigrant ships.

736. Such legislature may, with Her Majesty's consent, regulate the coasting trade of that possession, but must treat all British ships alike.* Rights and privileges in respect of the coasting trade granted to foreign ships before May 18th, 1869, remain in force.

737. *Provision for Foreign Places where Her Majesty has Jurisdiction.*—If in any foreign place there is no consular officer, anything authorised by this Act to be done by such officer may be done by such officer as Her Majesty in Council may direct.

* The coasting trade of India is regulated by the Governor-General in Council, whose orders shall be published in the *London Gazette* and laid before Parliament, and which orders may be revoked. (Customs Consolidation Act, 1853, s. 329).

Foreign ships in the coasting trade of the United Kingdom and adjacent islands are liable to the same laws and provisions as British coasting ships, and shall pay the same rates, tolls, and dues. (Customs Consolidation Act, 1853, ss. 329 to 331, and Customs Consolidation Supplemental Act, 1855, s. 13).

738. Orders in Council.—Orders in Council may be made by Her Majesty under the powers of this Act, and may be revoked, altered, or added to by Order in Council. They must be published in the *London Gazette*, and laid before Parliament.

Transmission and Publication of Documents.

739. Any notice, authority, order, &c., given or made under this Act by the Board of Trade, Customs Commissioners, or governor of a British possession, to any person not being an officer of the same, is to be in writing, and where to be transmitted it may be sent by post.

740. Documents to appear in the *London Gazette* may be published in accordance with the Rules Publication Act, 1898.

741. Exemption of Her Majesty's Ships.—This Act is not to apply to Her Majesty's ships, except where specially provided.

Definitions, and Provisions as to Application of Act.

742. Definitions.—See page 217.

743. Propulsion.—See page 218.

744. Fishing Vessels.—See page 218.

Repeal and Savings.

745. Enumerates in Schedule XXII, the Acts repealed, but provides that the provisions of such Acts are continued in force under this Act.

746. This Act does not affect the Chinese Passengers Act, 1855, or the rating of any seaman rated as A.B. before August 2nd, 1880.

Short Title and Commencement.

747. This Act may be cited as the Merchant Shipping Act, 1894, and

748. Came into operation on January 1st, 1895.

SCHEDULES.

Schedule I. gives the *Forms* of A. (s. 24) Bill of Sale; B. (s. 81) Mortgage, (i) to secure Principal and Interest, (ii) to secure Account Current, &c.; C. (s. 87) Transfer of Mortgage. These are subject to Alteration from time to time by the Customs Commissioners, with the consent of the Board of Trade.

Other *Forms* prescribed by s. 65 are, Certificate of Surveyor; Declaration of Ownership, by individual owner, and on behalf of a corporation; Certificate of Registry; Provisional Certificate; Declaration of Ownership, by individual transferee, and on behalf of a corporation; Declaration of Owner, and by Mortgagee, taking by Transmission; Certificate of Mortgage, and of Sale, and Revocation of same.

Schedule II., referred to in ss. 77, 78, 81, 85, gives the *Rules for the Measurement of Tonnage*.

Schedule III. (s. 88) gives *Table of Fees for Measurement of Ships*, ranging from £1 for ships under 50 tons register, to £10 for ships of 5,000 tons and upwards.

Schedule IV. (s. 97) gives *Fees to be paid by Applicants for Examination*:—For Certificate as Master or First-Class Engineer, £2, and for Mate or Second-Class Engineer, £1.

Schedule V. (s. 200). *Regulations with respect to Anti-Scorbutics*.—Lime or lemon juice, or other anti-scorbutics, to be of such quality and materials, and packed and kept, according to Order in Council. Lime or lemon juice must be obtained from a bonded warehouse as stores; must be certified as fit for use by a Board of Trade official; must contain 15 per cent. of approved proof spirit free of duty; and packed and labelled as the Customs Commissioners direct.

Serving.—Lime or lemon juice to be served out with sugar. Anti-scorbutics to be served to the crew when and after 10 days out (except while in harbour and there supplied with fresh provisions); juice at the rate of 1 oz. per man daily, mixed with water, and other anti-scorbutics as provided by Order in Council.

Schedule VI. (ss. 79, 210). *Regulations with respect to Accommodation on board Ships*.—Spaces occupied by seamen and apprentices are to be securely constructed, properly lighted, ventilated, and protected, and as free as practicable from effluvia caused by cargo or bilge-water. Spaces so occupied will not be deducted from registered tonnage unless there be privies for the use of the crew approved by the surveyor. Such spaces must be inspected and passed by a surveyor whenever the ship is registered or re-registered, and no deduction for tonnage will be allowed unless there is

permanently cut in a beam, and cut in, or painted on, or over the doorway or hatchway of such spaces, the number of men accommodated with the words "Certified to accommodate seamen."

On complaint, a surveyor may inspect such spaces, and if he finds the above provisions are not complied with, the deduction from tonnage will be disallowed, unless and until a surveyor certify compliance.

Fee for Inspection for each visit not to exceed 10s., nor £1 whatever the number of visits. When inspected during measurement of tonnage there is no charge.

Schedule VII. (s. 244). *Constitution of Local Marine Boards.*—To consist of the Mayor or Provost, and Stipendiary Magistrate of the port, as *ex-officio* members, four members appointed by the Board of Trade from residents or business men within 7 miles thereof, and six members elected by the owners of foreign-going and home-trade passenger ships registered at the port.

Elections to be held triennially (dating from 1896) on January 25th, and casual vacancies must be filled up by election within one month after they occur.

A registered owner has a vote for each member for every 250 tons of shipping held, so that his votes for any one member do not exceed 10.

The preparation of the voting lists for members of the Local Marine Board is entrusted to the chief officer of customs of the port, and such lists are revised every three years by two justices appointed by the Mayor or Provost of the port. The expenses of revision are borne by the Board of Trade. Every male person on the revised list of voters is eligible to become a member of the Board, but no others.

Schedule VIII. (s. 254). *Particulars to be registered by Master concerning Births or Deaths at Sea.*—In case of a birth, the date, name, and sex of the child, and names and descriptions of the father and mother; and in case of death, the date, name, sex, age, description, and cause.

Schedule IX. (ss. 277, 360). *Maximum Fees for Passenger Steamer's Certificate.*—Not exceeding 100 tons, £4; over 100 and under 300 tons, £6; and for every additional 300 tons, £2.

Maximum Fees for Survey of Emigrant Ships.—Ordinary survey of ship, equipments, accommodation, stores, &c., £10; special survey, £15.

Schedule X. (ss. 292, 367). *Regulations as to Number of Persons carried on Emigrant Ships.*—Under the poop, and in the round house, deck house, and upper passenger deck, there must be at least 15 feet clear superficial space for each steerage statute adult, and on the lower passenger deck 18 feet. If the space between the two decks is less than 7 feet, or if the lighting and ventilation are inadequate, there must be 25 feet of space for each adult. For each such adult there must be at least 5 superficial feet of space for open air exercise.

Schedule XI. (s. 298). *Regulations as to Accommodation for Steerage Passengers.*—*Passenger Decks* to form part of permanent structure of ship, with not less than 6 feet clear space between.

Berths not to be in more than two tiers, with at least 80 inches space between and above, and the lower one at least 6 inches above the deck. Single males above 14 years of age to be berthed in the fore part, separated from the rest of the passengers. Berths must not be removed until 48 hours after the ship's arrival, unless the passengers have previously voluntarily quitted the ship.

Hospitals to be under the poop, in the round house, deck house, or upper passenger deck, and to contain not less than 18 clear superficial feet for every 50 steerage passengers, properly fitted and supplied.

Privies.—At least two privies must be provided, with two in addition on deck for every 100 steerage passengers. Ships carrying 50 female passengers must have at least two under the poop, or on the upper deck, for the exclusive use of them and young children.

Light and Ventilation must conform with the requirements of the emigration officer.

Schedule XII. (s. 298). *Water and Provisions.*—Three quarts of *Water* daily for each adult, exclusive of that used for cooking purposes.

Provisions to be issued weekly on the following scales for each statute adult; Scale A. being for voyages not exceeding 84 days for sailing ships or 50 days for steamships, and Scale B. for longer voyages:—

Article.	Scale A.	Scale B.	Article.	Scale A.	Scale B.
	lbs. oz.	lbs. oz.		lbs. oz.	lbs. oz.
Bread or Biscuit ...	3 8	3 8	Tea	0 2	0 2
Wheaten Flour ...	1 0	2 0	Salt	0 2	0 2
Oatmeal	1 8	1 0	Mustard	0 $\frac{1}{2}$	0 $\frac{1}{2}$
Rice	1 8	0 8	Pepper, ground ...	0 $\frac{1}{2}$	0 $\frac{1}{2}$
Peas	1 8	1 8	Preserved Meat ...	—	1 0
Beef	1 4	1 4	Suet	—	0 6
Pork	1 0	1 0	Raisins	—	0 8
Butter	—	0 4	Lime Juice	—	0 6
Potatoes	2 0	2 0	(See next page).		
Sugar	1 0	1 0	Vinegar	1 Gill	1 Gill

Substitutions may be made, at the option of the master, as follows, but they must appear in the contract tickets:—

1½ lb. soft bread baked on board	for	{ 1 lb. flour, or 1 lb. biscuit, or 1½ lb. oatmeal, or 1 lb. rice, or 1 lb. peas.
1 lb. preserved meat	 for	1 lb. salt pork or beef.
1 lb. flour, or of bread or biscuit, or ½ lb. beef or pork	} for	{ 1½ lb. oatmeal, or 1 lb. rice, or 1 lb. peas.
1 lb. rice	 for	1½ lb. oatmeal, or <i>vice versa</i> .
½ lb. preserved potatoes	 for	1 lb. potatoes.
10 oz. currants	 for	8 oz. raisins.
8½ oz. cocoa or ground coffee	... for	2 oz. tea.
¾ lb. treacle	 for	½ lb. sugar.
1 gill mixed pickles	 for	1 gill vinegar.

Lime Juice need not be issued when not in the Tropics.

Messes not to consist of more than 10 statute adults, but a family may form a separate mess. Water and provisions to be issued before 2 p.m. daily to the head of each mess. Provisions needing it must be issued properly cooked.*

Schedule XIII. (s. 801). *Carriage of Horses and Cattle in Emigrant Ships.*—No animals may be carried below a passenger deck, and a clear space of at least 10 superficial feet for each statute adult must be left on the spar or weather deck for the steerage passengers. Steerage passengers must not exceed 15 for every 100 tons of the ship's register.

In ships under 500 tons register not more than 2 head of large cattle may be carried, and one head for every additional 200 tons; not more than 10 in all. "Large cattle" includes horned cattle, deer, horses, and asses; four sheep or female goats are considered equivalent to one head of large cattle. Not more than 6 dogs, and no pigs or male goats, may be carried as cargo in an emigrant ship.

Schedule XIV. (s. 860). *Forms under Part III.*—Form I. Master's Bond. Form II. Passengers List, Names and Descriptions of Passengers, Summary of Steerage and Cabin Passengers. Form III. Governor's or

* We may here give the amount of *Bonded Stores* allowed to be shipped duty free on British and foreign outward-bound vessels of not less than 50 tons register, proceeding on voyages of not less than 40 days duration, an addition of 25 per cent. being permitted to guard against casualties:—

1. For the master, each mate, and each cabin passenger, per *day*, 1 quart of Wine and ½ oz. Cigars.
2. For each person on board, per *week*, 2 lbs. Dried Fruit, and ½ Pint Vinegar.
3. For each person on board, per *day*, 1 oz. Coffee or Cocoa, ½ oz. Tea, ½ oz. Tobacco, 1 quart Beer, ½ pint Spirits.

One pint of Wine is considered equivalent to ½ pint Spirits.

Consular Officer's Certificate of Expenditure in the case of Passengers Wrecked or Forwarded. Form IV. Passage Broker's Bond (s. 342). Form V. Passage Broker's License. Form VI. Notice to the Board of Trade by Licensing Authority granting a License. Form VII. Notice to the Board of Trade by Applicant for such a license. Form VIII. Notice of Forfeiture of such a License, by the Court to the Board of Trade. Form IX. Appointment of Passage Broker's Agent. Form X. Emigrant Runner's Annual License.

Schedule XV. (s. 375). *Number and Dimensions of Boats for Registered Fishing Boats.*

Schedule XVI. (s. 420). *Maximum Fees for Inspection of Lights and Fog Signals.*—For each visit 10s., but not to exceed £1 whatever the number of visits.

Schedule XVII. (s. 429). *Life-Saving Appliances: Constitution of the Committee.*—Three owners selected by Chamber of Shipping of the United Kingdom; one by the Glasgow Shipowners Association, and one conjointly by the Liverpool Shipowners and Steam Ship Owners Associations. Two Shipbuilders selected by the Institution of Naval Architects. Three persons practically acquainted with navigation selected by Shipmasters Societies. Three A.B. Seamen selected by Seamen's Societies. Two persons selected conjointly by Lloyd's Committee, Lloyd's Register Society, and the Institute of London Underwriters.

Schedule XVIII. (s. 453). *Precautions as to Grain Cargo.*—A ship laden with a grain cargo must not carry any grain in bulk between the main and upper decks, except in feeders for the cargo in the hold. Where such feeders are not provided, not less than one-fourth of the grain* in any hold or compartment shall be in bags, on platforms laid on the grain in bulk.

This regulation as to bags does not apply to oats or cotton seed†; nor to sailing ships of less than 400 tons register not engaged in the Atlantic trade; nor to a ship laden at Mediterranean or Black Sea ports if divided into compartments by transverse partitions, and fitted with longitudinal bulkheads or shifting boards, and if the ship carries not more than one-fourth of the grain cargo, and not more than 1,500 quarters, in any one compartment, fitted with feeders from the between decks; nor to a ship in which the grain cargo

* In the case of single-decked ships, this fourth or part thereof may consist of cotton or grass bales, bags of flour or other suitable cargo stowed on platforms. (*Board of Trade Official Notice, No. II., 1881.*)

† Ships loading a cargo of oats or cotton seed may carry it in bulk between the decks, but the between-deck hatches must not be put on, and openings provided or deck strakes lifted, to admit of the grain feeding the lower hold. (*B.T. Off. Notices, Nos. III., V., VII., and VIII.*)

does not exceed one-half of the whole cargo, the other part of the cargo being so stowed as to prevent the grain from shifting.

The hold and 'tween decks must be divided by a longitudinal bulkhead, or by grain-tight shifting boards.

Schedule XIX. (s. 558). *Part I. Statements in case of Salvage by H.M. Ships.*—The *salvor* must give particulars of the place, condition, and circumstances of the salvage, the nature and duration of the services rendered, his estimated value of the property saved, the amount claimed for salvage, and any other relevant circumstances. And the *master* or person in charge of the vessel or property is to make a similar statement, and must give in addition a copy of the certificate of registry, and of the state of the ship's ownership, with particulars of the freighter, freight, and cargo, and of the owner or consignee of the latter; also his estimated value of the ship, cargo, property, and freight (in place of the value of the cargo he may give a copy of the vessel's manifest); also his estimate of the value of the salvage; a list of property saved; an account and particulars of any sale of vessel, cargo, or property; particulars of the crew at the time of the salvage services; and any other relevant circumstances; and also of his willingness to execute a bond in a prescribed form (Part II.).

Part II. Form of Salvage Bond to be executed by the Master.—See page 216.

Schedule XX. (s. 567). *Maximum Fees and Remuneration of Receivers.*—For every examination on oath, £1, not to exceed in the aggregate £2 whatever the number of deponents. For every report required to be sent to Lloyd's, 10s. For wreck taken into his custody, 5 per cent on the value, but the amount not to exceed £20.

Services rendered in respect of a vessel in distress, not being wreck, if the vessel and cargo exceeds £600, then £2 for the first and £1 for every subsequent day the receiver is employed; but if of less than £600 value, then one-half of such sums.

Schedule XXI. (s. 582). *Maximum Rates of Pilotage leviable by the Trinity House.*—Foreign ships, unless privileged, pay one-fourth more than British ships.

Schedule XXII. (s. 745). *Repeal.*—Enumerates the Acts repealed.

CHAIN CABLES, AND ANCHORS.

The Chain Cables and Anchors Acts, 1864, 1871, and 1874, being 27 and 28 Vict., cap. 27; 34 and 35 Vict., cap. 101; and 37 and 38 Vict., cap. 51, respectively provide for the testing of chain cables and anchors by licensed public bodies under Board of Trade inspection, and for the marking of every anchor, and every 5 fathoms of chain, with a proof mark, and giving certificates of test, at certain authorised charges. Persons offending against these Acts are liable to heavy penalties, and in some cases are guilty of a misdemeanour. The operation of these Acts does not relieve makers from civil responsibility. The sale or purchase for the use of any British ship of unproved chain cables, or anchors, exceeding 168 lbs. in weight, is a misdemeanour, and every contract for sale of chain cable shall be deemed to imply a warranty that such cable has been properly tested. The anchors and cables of any alleged unseaworthy ship may be tested, unless they have previously been tested in the prescribed manner. These Acts do not affect Admiralty contracts.

ROYAL NAVAL RESERVE.

By the Reserve Volunteer Force of Seamen Act, 22 and 23 Vict., cap. 40, provision was made for enrolling from amongst the seafaring classes of the community a force not exceeding 80,000 men, and for training them, or, if necessary, calling them up for active service. Provisions were also made for their maintenance, payment, pension, discharge, and punishment.

By the Officers of Royal Naval Reserve Act, 1863, 26 and 27 Vict., cap. 69, ss. 1 to 5, provisions were made for accepting the service of officers and engineers of the merchant service and other suitable persons, as officers of the Reserve to the Royal Navy. Forms of application for appointments can be obtained from any Registrar of seamen.

The Royal Naval Reserve of *Seamen* consists of four classes:—

(1.) *Able Seamen*, or men of higher rating; age at entry not to exceed 30; must have had at least 6 years sea service. The retainer is a sum of £6 a year, payable quarterly; he may also obtain an appointment in the Coast-guard service, and under certain conditions a pension of £12 a year.

(2.) *Ordinary Seamen or Fishermen*; age at entry from 19 to 30, with at least 8 years seafaring experience. The retainer is £3 5s. a year, payable quarterly.

(3.) *Boys*; age 15 to 16½, having spent 1½ year in a training ship or school.

(4.) *Firemen*; age from 21 to 35 at entry, having spent at least 2 years at sea as a fireman. The retainer is £6 a year, payable quarterly, and under certain conditions a pension of £12 a year.

The engagement is for 5 years in each case, and on enrolment a certificate is issued, which must be carefully preserved. This must be personally produced to a Registrar in the United Kingdom at intervals not exceeding 6 months, unless special leave has been granted.

Drill must be performed on a ship or battery as appointed by the Registrar, Classes 1, 2, and 3 being required to drill 28 days in each year, taking not less than 14 days continuously on the first attendance, and in periods of not less than 7 days subsequently. Firemen must drill 21 days in the first year (not less than 14 days continuously on the first attendance), and 14 days in every subsequent year, in periods of not less than 7 days.

For appointments as *Officers* in the Royal Naval Reserve, the age of the applicant must not exceed 40 years as Lieutenant, 35 as Sub-Lieutenant, 50 as Senior Engineer, 40 as Engineer, 30 as Assistant Engineer, and 16 to 18 as Midshipman.

To be qualified for the rank of Lieutenant, he must have commanded a first class steamer of at least 1,500 tons, or a sailing ship of 1,000 tons gross, for not less than 1 year. For Sub-Lieutenant, he must have so served as First Mate of such a ship, and must possess a Master's Certificate. Second and Third Mates are also eligible, if not less than 6 years at sea, and possessing a Master's Certificate. For Midshipman, he must have served 1 year at sea on board a first class ship.

To be qualified for Senior Engineer, he must hold a First Class Certificate, have been at least 8 years in sole charge of the machinery of a British ship of not less than 500 H. P., and not less than 8 years at sea as Engineer. For Engineer Officer, he must hold a First Class Certificate, have served at sea as Certificated Engineer for at least 8 years, and have served at least 1 year as Chief Engineer of a ship of 200 H. P., or as Second Engineer of a ship of not less than 500 H. P. For Assistant Engineer, he must hold a First or Second Class Certificate, and have served at sea for a period of not less than 1 year.

Officers must report themselves once a year by letter to the Registrar-General of Seamen, and they must undergo annually 28 days drill and gunnery instruction on a District Drill Ship, in periods of not less than 7 days each; or, if stationed abroad, they may be permitted to do so in one of Her Majesty's Ships.

Officers may also volunteer to go through a course of training in the Fleet for a continuous period of 12 months, and if found competent they will then become entitled to an annual retaining fee of £25 as Lieutenant, £20 as Sub-Lieutenant, and £10 as Midshipman.

It is more than probable that substantial alterations will shortly be made in these conditions.

THE FOREIGN ENLISTMENT ACT, 1870.

This Act, being 33 and 34 Vict., cap. 90, is entitled "An Act to regulate the conduct of Her Majesty's subjects, during the existence of hostilities between foreign states, with which Her Majesty is at peace." The following is a digest of its provisions, which repeal those of the former Act, 59 Geo. III., cap. 69.

Illegal Enlistment.—Any British subject, without Her Majesty's license under sign manual, Order in Council, or proclamation, enlisting in the military or naval service of any such foreign state, or attempting to quit Her Majesty's dominions for such purpose, or any person inducing a British subject so to act, whether by false representations or otherwise, commits an offence punishable by fine and imprisonment. The master or owner of any ship taking illegally enlisted persons on board is also so punishable, and the ship shall be detained until after the trial and payment of penalties inflicted.

Illegal Shipbuilding, and Illegal Expeditions.—Any person within Her Majesty's dominions, without Her Majesty's license, building or causing a ship to be built, knowing or suspecting it to be for the use of any such foreign state, or who issues or delivers any commission for any ship to be so used, or who equips or despatches, or allows it to be despatched, is punishable by fine and imprisonment, and the ship and her equipment shall be forfeited to the Crown. *Unless* such building or equipment be in pursuance of a contract made before the commencement of the war, when immediately upon a proclamation of neutrality being issued by Her Majesty he must give full notice thereof to the Secretary of State, and give due security that the ship shall not be removed before the conclusion of the war without Her Majesty's license.

Every person engaged in assisting in the fitting out or preparation, or employed in or accessory thereto, of any naval or military expedition against a friendly state, is punishable by fine and imprisonment, and the ships, arms, &c., shall be forfeited to the Crown.

Fines are inflicted at the discretion of the Court, but any term of imprisonment shall not exceed 2 years, either with or without hard labour.

Illegal Prize.—If during a war in which Her Majesty is neutral any prize of war be captured within Her territorial jurisdiction, or by any ship built, &c., contrary to the provisions of this Act, and such prize be brought within the limits of Her dominions, the original owner or his country's representative may apply to the Court of Admiralty for seizure thereof, and on due proof it may be restored to the owner. There is a right of appeal.

Legal Procedure.—Where it appears that it would be conducive to the interests of justice, that an offender under this Act should be removed to some other part of Her Majesty's dominions for trial, the judge may so direct.

Proceedings for condemnation and forfeiture of ship, &c., require the sanction of the Secretary of State, and must be in the Court of Admiralty.

The following persons, referred to as the "local authority," are authorised

to seize vessels offending against this Act. Any officer of customs in the United Kingdom, any officer of customs or public officer in British possessions, any full pay commissioned officer in the military or naval services. The Court of Admiralty can also appoint an officer to make the seizure. They are entitled to the aid of the police, military, and naval forces, &c., in effecting such seizure.

Where the Secretary of State has received information of detention from any local authority, or has reason to believe that a ship is being illegally built, &c., he may issue a warrant for her search, seizure, and detention, if considered necessary. The owner can apply to the Court of Admiralty for restitution, and is entitled to costs and damages if successful.

LASCARS.

By 4th Geo. IV., cap. 80, ss. 20 to 26, and 28 to 34, it was enacted as follows with regard to Asiatic sailors, lascars, or natives of the East, serving on board British vessels. Such are not deemed to be *British* seamen, within the meaning of Acts relating to the navigation of British ships; but, in case of war, the Crown can by proclamation permit merchant ships to be manned wholly or partly by lascars.

The Governor-General in Council makes, alters, and repeals rules to be observed by masters and owners for the due supply of provisions, clothing, and other necessary accommodation for lascars; breach or non-observance of which entails a penalty of £10 on the master and owner for every lascar affected, one-third to go to the informer or person suing, and the other two-thirds to the maintenance, return, and benefit of the lascar as the Court shall direct. Penalties may be recovered by distress and sale of goods, and in default the offender may suffer 3 months imprisonment. Actions must be commenced within 3 months after the fact committed, and in the place where the cause of action arose.

Lascars convicted of vagrancy may be returned to their country at the expense of the persons liable under the rules. Lascars found in distress in the United Kingdom are to be maintained, and sent home, at the expense of the master and owner of the ship which brought them.

LIST OF BRITISH CONSULAR FEES.

The following fees are leviable in all foreign countries, except China, Japan, and Corea, under the Consular Salaries and Fees Act, 1891, and Order in Council, 1892, and the Foreign Marriage Act, 1892, and Order in Council, 1892.

PART I.—WHERE INTERPOSITION OF CONSUL IS REQUIRED BY LAW.

	£	s.	d.
1. A declaration under the Merchant Shipping Act as to registry, or transfer, or mortgages on ships	0	5	0
2. Endorsing change of master upon the certificate, and initialing his signature on agreement with crew	0	4	0
3. Provisional certificate of registry (exclusive of fees on declarations)	1	0	0
4. Recording a mortgage	1	0	0
5. Recording transfer of mortgage	1	0	0
6. Recording discharge of a mortgage	1	0	0
7. Sale made before a consular officer under a certificate of sale	1	0	0
8. Inspection of the register book, kept in pursuance of the Merchant Shipping Act	0	1	0
9. Certified copy of extract from register book	0	2	6
10. For every seaman engaged before a consular officer	0	2	0
11. Alteration in agreements with seamen	0	2	0
12. For every seaman discharged or left behind	0	2	0
13. For every desertion certified	0	2	0
14. Attesting a seaman's will (<i>see</i> No. 100)	0	2	0
15. Examination of provisions or water	0	10	0
16. For every salvage bond	2	0	0
17. Making endorsements on ship's papers as required by section 257 of the Merchant Shipping Act, including fee (No. 43) ...	0	2	6
18. Receiving notice of an intended marriage	0	10	0
19. Receiving notice of a caveat	1	0	0
20. Every marriage solemnised and registered by him	0	10	0
21. Certificate of notice having been given and posted up ...	0	5	0
22. Attendance at, and registration of, a marriage solemnised in accordance with the local law	1	0	0

PART II.—WHERE THE INTERPOSITION OF CONSUL IS GIVEN WHEN REQUIRED.

23. Noting a marine protest and furnishing one certified copy ...	0	7	6
24. Filing a request for survey and issuing order	0	10	0
25. Receiving and filing report of survey, not exceeding 200 words, and furnishing one certified copy of request, order, and report ...	1	0	0

	£	s.	d.
26. Extending marine protest, if not exceeding 200 words, filing original, and furnishing one certified copy (exclusive of fee No. 48, or No. 94 for drawing the body of the protest)	1	0	0
27. Any other protest, not exceeding 200 words	1	0	0
28. If protest or report exceed 200 words, then for every additional 100 words	0	2	6
29. Attesting average, bottomry, or arbitration bond, each copy	0	5	0
30. Preparing fresh agreement with crew, and furnishing copy required by Merchant Shipping Act	0	10	0
31. Bill of health	0	10	0
32. Certifying to a foreign bill of health	0	10	0
33. Certificate of origin of goods and filing copy	0	10	0
34. Certificate of landing of goods from a British port	0	10	0
35. Application to local authorities for arrest or imprisonment of a seaman	0	5	0
36. Application for release of a seaman	0	5	0
37. Each certificate as to number of crew, or as to any other matter required by local authorities for clearance inwards and outwards (<i>see</i> No. 38)	0	5	0
38. Drawing up, in form required by local authorities, a muster-roll, giving names, &c., of each member of the crew (in addition to No. 37)	0	2	6
39. Affixing consular signature, and seal, to ship's manifest ...	0	10	0
40. Affixing consular seal or signature to an entry in the official log, if not required by the Merchant Shipping Act	0	5	0
41. Attesting the execution of a bill of sale	0	5	0
42. For any document required by foreign authorities as a preliminary to the engagement of a British seaman in a foreign vessel, including official seal and signature	0	1	0
43. Inspecting ship's papers to enable performance of any specific service on the ship's behalf (<i>see</i> No. 17)	0	2	6
44. Granting any certificate not otherwise provided for, not exceeding 100 words	0	5	0
45. For every additional 100 words	0	5	0
46. Noting a bill of exchange	0	5	0
47. Protest of a bill of exchange and copy	1	0	0
48. Administering oath, or receiving a declaration or affirmation, without attestation of signature	0	2	6
49. Administering an oath, &c., with attestation	0	5	0
50. Consular signature attached to an exhibit referred to in an affidavit or declaration	0	2	6
51. Each alteration initialled in any document not prepared by Consul	0	0	6
52. Each signature to transfer of shares or stock attested ...	0	2	0

	£	s.	d.
53. Each signature to a transfer of shares or stock attested, when executed in presence of other one or more witnesses ...	0	5	0
54. Each execution of a power of attorney attested. (Not to exceed £1, even if more than four) ...	0	5	0
55. Attesting the execution of a will of any person not being a British seaman ...	0	10	0
56. Each execution of a deed, bond, or conveyance under seal attested. (Not to exceed 80s.) ...	0	7	6
57. Each signature to an application for a patent attested ...	0	5	0
58. Attaching consular signature, and seal, to declarations for Government pay, half-pay, or pension ...	0	1	0
59. Consular signature to any other declaration of existence ...	0	2	6
60. Do., if drawn up by a consular officer ...	0	5	0
61. Certificate of a person's identity ...	0	10	0
62. Attesting the signature of a foreign authority ...	0	5	0
63. Each signature attested in any document not otherwise provided for ...	0	5	0
(No fee to be charged for attesting a signature for deposit or withdrawal of money in or from P. O. Savings Bank).			
64. Receiving and giving a receipt for any document, packet, or article deposited in the consulate under the conditions of fee No. 108	0	5	0
65. Registration of birth or death (except death of seaman) ...	0	2	6
66. For any registration not otherwise provided for ...	0	2	6
(No fee to be charged for registration of a British subject at a consular office, where such registration is not compulsory).			
67. Issue of certificate of British registration, when such registration is not compulsory ...	0	2	6
68. Each search in the registers of births, marriages, or deaths	0	1	0
69. Certified copy of an entry in registers ...	0	2	6
70. Certifying to a copy of any document not exceeding 100 words	0	5	0
71. For every additional 100 words (<i>see</i> No. 97) ...	0	1	0
72. Passport ...	0	5	0
73. Visa of a passport ...	0	2	0
74. Issue of certificate of nationality ...	0	2	6
75. Consular request to local authorities for a passport or visa	0	2	0
76. Opening will of British subject, not a seaman, including signature to minute of proceedings ...	1	0	0
77. Administration and distribution of the property, situate in the country of the consular officer's residence, of a British subject, not being a seaman ...	2½ per cent. on the gross value.		
78. Uniting documents and attaching seal to the fastening ...	0	2	6
79. Directing search for, or obtaining extracts from local registers, or copies of wills, deeds, &c., in addition to expenses incurred and any fees for attestation ...	0	5	0

	£	s.	d.
80. Affixing signature, and seal if required, to any document not otherwise provided for	0	5	0
(No charge is to be made for an order or letter sending a seaman to hospital).			
81. Each consular seal affixed to a document, packet, or article, when no signature is required	0	2	6

PART III.—CERTAIN ATTENDANCES, TRAVELLING AND OTHER EXPENSES.

82. Attendance at a shipwreck, or for assisting a ship in distress, per day	2	0	0
83. At a shipwreck, to assist or to advise as to salvage, per day	3	0	0
84. Affixing or removing of seals on property of deceased persons, if absent less than 2 hours	1	0	0
85. Do., do., for each additional hour, 10s., with a maximum per day of	4	0	0
86. At a valuation, if absent less than 2 hours	1	0	0
87. Do., do., for each additional hour, 10s., with a maximum per day of	4	0	0
88. At a sale, if absent less than 2 hours	2	0	0
89. Do., do., for each additional hour, 10s., with a maximum per day of	4	0	0
90. For the transaction, elsewhere than at the consular office, of any of the duties for which a fee is provided, for each hour, 10s., with a maximum per day of	4	0	0
91. For the transaction of any duty for which a fee is leviable, whether at the consular office or at the consular officer's residence, for each half-hour, or fraction thereof, if in the daytime, between 6 a.m. and 9 p.m., but not during the customary business hours of the place	0	5	0

PART IV.—CERTAIN OTHER SERVICES, AT THE CONSUL'S DISCRETION.

92. For the transaction of any duty for which a fee is leviable, whether at the consular office or at the consular officer's residence, in addition to such fee, for each half-hour, or fraction thereof, if in the night time, between 9 p.m. and 6 a.m.	0	10	0
93. Preparing average, bottomry, or arbitration bond	1	0	0
94. Drawing a declaration or other document, or the body of a protest, or taking down in writing verbal declarations or depositions, or for reducing into writing agreements made before him, exclusive of fees for attestation, &c., if not exceeding 100 words	0	5	0
95. For each subsequent 100 words	0	2	6

	£	s.	d.
96. Assisting in drawing up petitions, applications, or other documents not specified, each	0	5	0
97. Making copy of document, not exceeding 100 words, exclusive of fee for certificate	0	1	6
98. For every subsequent 100 words. (In any foreign language, double the above fees are to be charged)	0	1	0
99. Making or verifying a translation of a document, for every 100 words, exclusive of fee for certificate... ..	0	5	0
100. Drawing a will, if not exceeding 200 words	1	0	0
101. For every subsequent 100 words	0	5	0
102. Drawing a power of attorney	0	10	0
103. Where one or more attesting witnesses, besides a consular officer, are required, for each witness supplied by him at the request of the parties interested	0	2	6
104. On sums advanced by consular officer, a commission of ...	5 per cent.		
105. Attendance elsewhere than at consular office, for the transaction of business which a consular officer is permitted to undertake, for each hour, 10s., with a maximum per day of	4	0	0
106. On sums remitted or paid to a consular officer to be expended or handed over, in accordance with instructions from private persons, a commission of	5 per cent.		
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107. On sums recovered by a consular officer, a commission of	5 per cent.		
108. On deposit of money or valuables, a commission of ...	5 per cent.		
109. For the administration and distribution of the property, situate in the country of the consular officer's residence, of a deceased British subject, not being a seaman, when undertaken in cases of difficulty, and upon the written request of the legal representatives	2½ per cent. on the gross value.		
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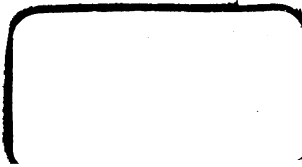
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